Readings on Fundamental Moral Theology

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READINGS

ON

Fundamental Moral Theology

BY THE

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Preface

THESE studies are intended as supplementary reading to Sabetti-Barrett. This well-known textbook on moral theology is admittedly very brief and deals more with conclusions deduced from principles, than with the proof of the principles. This is especially true in the first or fundamental part. It takes for granted that the principles of psychology and ethics underlying human acts, the norm of morality, laws and legislation, moral obligation, etc., have been fully established in the course of philosophy. Experience however proves that the students coming for theology, though they have a knowledge and judgment of these philosophical principles, have not understood their full bearing on the morality of concrete acts. For the purpose of reviewing and refreshing these former studies and to give the more talented and industrious students a better insight into the principles on which the conclusions of moral theology are based, an extension course was arranged for them in Mount St. Mary Seminary of the West. These studies contain some of the lectures given in this course during the year 1925-1926. They are published in book form in the hope that they will interest former students and priests engaged in parochial work and urge them on to a deeper study of the basic principles of moral theology. They make no pretense to originality nor to the clamorous research work so much in vogue today. Nor do they pretend to be exhaustive. Their purpose is rather to be stimulative by putting some of these problems before the student for investigation and deeper study.

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Preamble

St. Thomas and the Ethics of Human Conduct

ST. THOMAS studies questions of Moral Theology *ex professo* in the second part of his Summa Theologica. Both the external and internal order of questions studied in the Summa are theocentric, starting with God and ending with Him. The Angelic Doctor indicates the reason for the division of his Summa into three parts in the following words: "Since the principal purpose of this sacred doctrine (theology) is to give knowledge of God not only as He is in Himself but also as He is the principal and end of all things and more especially of the rational creature, desiring to give an exposition of this doctrine, we will treat first of God; secondly of the motion of the rational creature towards God; and thirdly of Christ who (as He is man) is the way for us to come to God" (I, q. 2. caption to article one). In the second part which treats of ethics God is studied as the final cause and man is studied in as far as he is a rational creature tending naturally towards God. The second part of the Summa was admired already by contemporaries as the most original and brilliant treatise in the Summa.

To formulate a system of ethics thoroughly practical and at the same time to observe a rigid external order in the disposition of the subject matter and an internal order reducing the various principles to be applied to a basic underlying principle was not an easy task. But St. Thomas knew so well how to combine consideration of the universal with the particular, analysis with synthesis, deduction with induction as to enable him to put forward a system of morals both speculative and at the same time empirically practical in an eminent degree.

The second part of the Summa especially deserves the encomium which Leo XIII passed on the works of the Angelic Doctor: "Among the scholastic doctors, the chief and master

of all, towers St. Thomas of Aquinas who, as Cajetan observes, 'because he most venerated the ancient doctors of the Church, in a certain way seems to have inherited the intellect of all.' The doctrines of those illustrious men like the scattered members of a body, Thomas collected together and cemented, distributed in wonderful order and so increased with important additions that he is rightly esteemed the special bulwark and glory of the Catholic Faith" (Encyclical Aeterni Patris—Encyclical Letters of Leo XIII, Benziger Bros., p. 48). Speaking of the practical value of the Summa the same Pontiff says: "The teachings of St. Thomas on the true meaning of liberty, which at times is running into license, on the divine origin of all authority, on laws and their force, on the paternal and just rule of princes, on obedience to the higher powers, on mutual charity one towards another—on all of these and kindred subjects have a very great and invincible force to overturn those principles of the new order which are well known to be dangerous to the peaceful order of things and to public safety" (ibid., p. 55).

The central and pivotal thought which gives internal and cohesive order to the teachings on moral conduct in the Summa is the same as in the whole philosophic system of St. Thomas, namely, the study of the concept of *being*. Just as in his psychologic study of the intellect the *Truth of Being* is searched out, thus in the psychology of the will the whole question hinges on the *Good of the Being*. The rational being expresses the fullness of his personal being by the deliberate acts of the will. The fullness of personality is expressed by the acts of the will guided by the intellect because these two faculties constitute the being of personality. The fullness of personal being can be found only where there is control of acts. This control is exercised by the personal being because the will is free to choose as it will the created objects for which it can strive. It can thus freely choose because every created object is contingent and defective in being. That which attracts the

will is the good of the object. Every being is good in the degree in which it partakes of being, that is, in as far as it possesses the requisite perfection which nature has apportioned to its being. The lack of this being constitutes evil which is therefore non-being and as such cannot attract the will.

To strive for, to enjoy and to love the fullness of being is the ultimate end of the will and towards this the will by nature is oriented. All its particular ends are ranged under and toward this ultimate end. The good of the object, of the circumstances surrounding the object, of the end for which it is sought all are attractions for the will. Its passive potency lies in this, it can thus be attracted by the good. Its control arises because when thus attracted the will can determine itself by its active potency to act or not to act.

The intellect studies the truth of being as it is in the knower, namely, as the external object is faithfully reproduced in the passive intellect of the knower; the will strives for the good of the object as it is in reality. The fullness of being in reality is found only in God, the subsistent being in itself, the *ipsum esse subsistens*. "I am who am, I am being, Jahve," is the definition of Himself which God gave to Moses. God is the highest good because good and being coincide. As He is the highest being in reality, the *ipsum esse subsistens*, He is the highest good in reality. For "a thing is said to be perfect in the measure in which it is *in actu*" (I, q. 4, a. 1), i.e., the degree of a being's perfection depends on the degree of its actuality. God is highest good in actuality and therefore He is the ultimate end of the will.

The fullness of being in actuality hence the fullness of good of the divine essence prompted God to create, namely, to give being to things outside of Himself which had it not. The exemplar, the image and likeness of things created is the divine essence which as it moved God to create the beings that are, so it was given to them as the norm of their perfection. This is the *Eternal Reason of God and His Eternal Law*. Conse-

quently the moral good of man is in the approach to this norm. Consequently, too, the expressions of his personal being by acts over which he has control will be qualified as good or bad as they are in conformity or deformity to this norm of being which God—the divine essence, has set for him.

The relation of human persons to human persons and to human society are judged by this same law and from it the obligations of man to man as an individual and as a social being spring. In his political teaching the Angelic Doctor applies the same theory: "The individual person is a part of the multitude, and every man as he *is* and as he *has* is of the multitude, just as every part is of the whole" (I, q. 96, a. 4). For the benefit of the multitude he must give a part of what he has to receive back from the multitude in another form what he has given up for it.

Now it would be a fatal mistake to deduce from these considerations that the whole synthesis of Thomistic philosophy and especially of the parts which treat of the ethics of human conduct is based on mere *a priori* reasoning. In the search for the truth of being the Angelic Doctor proceeds by *a posteriori* analysis. From the analysis of consciousness he shows that the first concept of the mind is being, which then is reasoned about, judged, and the formal conclusions of an *sit, quid sit, cur sit, propter quid sit* are drawn. This analysis, too, brings the evaluation of the truth, the mind image faithfully reflects the reality of things and thus scepticism is banished and knowledge and science are possible. His study of truth does not stop at the mental image, it goes out through the medium of the mental image to reality. Being is not a mere mental image, it exists in reality in the particular and the concrete and the mental image of it is a true likeness of this reality which is tested by the criterion of things as they are. This same criterion is applied to human acts and to their morality. He studies human personality as it is and as it expresses itself by personal acts and then formulates his final synthesis.

Herein lies the vigor and freshness of the whole Thomistic system, namely, truth is not a figment of the mind, it is founded on realities, the will does not rediscover as in the system of Kant the being and knowledge objects and their values which a sceptical mind has lost. A thing is not good because God has so willed but God so willed because the thing is good. The created will has a natural inclination to the good to the reasonable; the fitness of the object and the good, the beauty, the reasonableness, attract it. The will determines itself as it is attracted by the good of the object. Because of the weakness and defectiveness of man's powers it may be deceived and accept the apparent for the real; because of its own imperfection passions, affections and habits may grip it but, unless it has gone insane, it can hold the mastery for its natural bent, inclination and orientation is towards the good which is the fullness of reality. Thus the ethics of St. Thomas hold the balance equally between exaggerated individualism and socialism, between exaggerated indeterminism and absolute predeterminism. (Cf. L'Anima di San Tomaso, by Olgiati, professor in University of Milan; Societa Editrice Vita et Pensiero, Milan, 1923, translated by John S. Zybura under the title: "The Key to the Study of St. Thomas," Herder, St. Louis, 1925.)

CHAPTER ONE

Free Will and Moral Obligation

ARTICLE I

The Psychology of the Free Will

THE psychic activity of man falls under the purview of moral theology in as far as his acts are attributable to his human person, i.e., such acts over which he can exercise control. Such are the acts of the sense and spirit life. The mere vegetative life acts are beyond this control.

In this restricted sense the psychic activity of man proceeds from two faculties classified generically as the cognitive and appetitive. Two cognitive faculties are distinguished, namely, the sensuous and the intellectual. Under the sensuous the five external and the four internal senses are ranged. Correspondingly two appetitive faculties are distinguished: to wit, the inferior or sense appetite, the superior or rational appetite.

Many among the moderns wish to distinguish a third generic faculty, namely, feeling or better, perhaps, the emotional faculty. Though a distinction can be made between feeling, emotion and appetency, in reality they denote varying states of the one appetitive faculty as it is slight or vehement or efficacious. They are varying inclinations toward the good or aversion from evil. And are thus all three nothing else than inclinations toward an object as it is good or evil and in consequence belong to the appetitive faculty. (Cf. Donat, S.J., Psychologia, Innsbruck, 1923, n. 371 sqq. Maher, S.J., Psychology, c. III, XII, XIX.)

Every being by a natural tendency seeks its own good. By good is here meant that which does or can bestow a perfection on a thing, or that which can help a thing to acquire or retain that condition of being which is proper to it. Con-

sidered thus it is called the worthy good (*bonum honestum*); considered merely in the light of pleasure, either sensuous or intellectual, it can produce, it is called the delectable good; considered in as far as it is means to another good, it is called the useful good. In the question of morals the *bonum honestum* is considered in its relation to the law of God and as such is called the moral good.

The good, in as far as it is not merely the terminus of the appetite but is exactly that which prompts by its own force the appetite actually to go out to it, is called the end. The rational appetitive faculty by which man pursues his good is the will. It is the efficient cause of all human acts. The final cause of such acts, namely, that which calls forth the activity of the will is the good of the being of the object towards which this activity tends.

The will of itself is undetermined to act, or not to act. Its determinant in the abstract is the good in general. In the concrete, it is some particular good apprehended as such. The definite good is therefore that which determines the will which is in potentiality to become active and to place this particular act. The will, of course, is mistress of her own acts, in so far as she can accept or reject the good proposed but yet if she does will, it is because of the good proposed. The efficient cause of the action and of the act is the will, but the cause which moves the will is the good of the end. To the question: Then why is the act posited? The answer must be: Because the will so willed; and to the further question: Why did the will posit this particular act and not another? The answer is: Because of the good of the end.

The causality of the final cause is said to be metaphorical, not, however, as if it were a mere fiction, but to distinguish it from the efficient cause. St. Thomas points out the difference: "As the influence of the efficient cause is to act, the influence of the final cause is to be sought after and to be desired." [1]

(1) Quaest. Disp. de verit. 22 ad 2.

The final cause does not unfold any activity—it is "*causa movens non mota*". The activity goes out from the appetitive faculty which is so disposed by nature that it may (or must) go out to its affinity—the good which is proposed to it.

The causality of the final cause does not extend to the subjective element of the act, i.e., the being of the act, it refers to the objective side, the specification of the act.

The final cause is not identical with the formal cause which, too, because it gives the matter its differentiating form, is a principle of specification. Acts take their species from the formal object. The difference lies in this: the final cause does not move the will simply to the good but on account of the good it moves the will to something else.

The final cause exercises its causal influence in a threefold manner:

a. To fix the intention on the end;

b. To use means to the end;

c. To attain the end or to effect the end in its physical being. *Finis obtinendus vel efficiendus.*

This latter causality might in a cursory consideration seem to imply self-generation. However, the active elements of the cause are the ideal good of the intended end and as such are acts of apprehending and willing. In the effect the physical being of the end obtained takes form in connection with the activities produced by these acts of apprehension and willing.

From this, too, it is understood, why the apprehension of the good, as at least not impossible of attainment, must precede every causal activity of the end.

The will is a blind faculty, its appetite is "*motus non movens*". The good of the being (of the object) must be brought to it and specified for it by some other faculty. The appetibility of the object able to draw it is objective; but it cannot present itself to the will except through a cognitive faculty. "*Nihil volitum nisi precognitum.*"

The will is the motor of the psychic acts of man; and the psychic activity of man is subject to the command of the will. However, the will cannot move the intellect unless previously some thought of the object has presented itself to the mind. Hence the axiom, "the first thought of a thing is not subject to the command of the will." For the will cannot determine itself to act unless the good of the object has been previously presented to it for selection. Nor can the will directly work on the object by lending the object a convincing motive which it has not of itself, in other words the will cannot produce evidence capable of moving the intellect where none such exists. The will can command reason to study the object more intimately, to examine it more closely; it cannot increase or lesson the vision power of the intellect, but it can give it a different viewpoint. The light in which reason works must be there, but the will can command the intellect to train the spotlight from a different angle, to exclude the sidelights, to dim or darken the light. To start with, therefore, there must be a something which at least gives a vague or undefined motive for the incipient assent of the intellect. Then the will can give the intellect a bent, a disposition or a condition which otherwise would be lacking. In this way the will can muddle even the self-evident first principles, and thus the act of the intellect depends on the act of the will and is commanded by it. This force is not despotically but diplomatically compelling, for the intellect in turn can and does sway the will. Again as there is nothing in the intellect except through the senses, the senses through the intellect can grip the will and the will in turn can sway the intellect to hold the mastery, and thus there is an interplay of cognition and appetency.

In as far, and only in as far, as these faculties are in man's control can he be held accountable for their acts, and thus the question arises: is this control free?

Free will, or rather to be more exact, free choice (St. Thomas always speaks of *liberum arbitrium* rather than of *libera voluntas*)

negatively means a freedom from an external cause compelling man to do something against his will (*libertas a coactione*); positively it means (1) the power to act or not to act (*libertas contradictionis*); (2) the power to place this act in preference to another (*libertas specificationis*). This freedom of the human will is based on the natural propensity of the will to be moved by the good. This, of course, is a necessity, the same as in order that the sight can see, a colored object must be brought within the radius of its vision. In this sense the will is in potentiality to be moved.

When the good is placed before it in this present life the will is free to accept or reject it. "The reason," says Leo XIII, "judges that it is equally possible for each and every created good to be or not to be and, in consequence of this, discerning that none need of necessity be taken up gives the will the power and option to elect as it chooses." [2] St. Thomas expresses this same truth in the following words: "If the will is offered an object which is good universally and from every viewpoint the will tends to it of necessity, if it wills anything at all since it cannot will the opposite (evil)." [3] "If on the other hand the will is offered an object that is not good from every viewpoint it will not tend to it of necessity. Lack of any good is a non-good." [4] Therefore the reason why the will is free with regard to created good is: all such good is contingent, all such good is defective. Therefore freedom of the will arises from a disproportion between subject and object. The subject, the will, is unlimited in its tendency to the good; the object, the created good is limited. Thus the will, which is in potentiality to be moved by any good, has the potency to move itself freely to any good. If we inquire further, why can the will determine itself in face of any particular good to act or not to act, i.e., to accept or reject it, or prefer one good to another, the answer is:

(2) Encyclical, Libertas. See Encyclical Letters of Leo XIII, p. 136. Benziger Bros.

(3) Summa I-II, q. x, a. 2. Passages from the Summa are generally quoted from the translation of the Dominican Fathers. London, Burns & Oates.

(4) Ibid.

every particular good is contingent and defective, and therefore the will is free in its choice.

This act of choice is the fruit of a united act of the reason and the will. "Man acts from judgment, because by his apprehensive power he judges that something should be avoided or sought. But because this judgment, in the case of some particular act, is not from natural instinct, but from some act of comparison in the reason, therefore he acts from free judgment and retains the power to be inclined to various things. For reason in contingent matters may follow opposite courses as we see in dialectic syllogisms and rhetorical arguments. Now particular operations are contingent." [5] This free choice is not merely of the reason, it belongs likewise to the rational appetite. "Choice is a desire proceeding from counsel. Now counsel is terminated first by the judgment of reason; secondly, by the acceptance of the appetite." [6] "The will can tend freely towards various objects precisely because the reason can have various perceptions of the good." "Wherefore the root of liberty is the will as the subject thereof but reason is the cause." [7] Thus the real principle of man's liberty lies not in the first direct apprehension of the object, nor in the direct practical judgment, but in the reflex selective decision: this is to be done because it is good.

Article II

The Norm of Morality

Though man has a control over his faculties, when brought face to face with actuality he senses a command, "I must do this or I must leave this undone." This prompting arises from moral obligation. The good presented is evaluated by the standards of morality. According as it conforms or is opposed to these standards the decision is given I must or

(5) I, q. 83, a. 4. (6) Ibid., a. 3. (7) Ibid., a. 1.

I must not do this. Hence the further inquiry arises: Why is it that when the moral good is presented to the intellect, it pronounces the judgment, "I must do this"; and why is it that the will feels itself constrained to follow this judgment?

Divine Providence compels the irrational being to obtain its end and purpose by a physical necessity which we call instinct. Man is led by a moral necessity to attain the end which this same Divine Providence has predetermined. Within this predetermined order of God which is to lead him to his ultimate happiness, man further provides for himself and those subject to him by his own free choice. This free choice may not, of course, run counter to the order willed by God.

The divine order is established from all eternity by the one pure and immutable act of God, which is His divine essence itself. Human intelligence cannot grasp the oneness of this act. Wherefore we distinguish between the command of God which decreed this order and the motive which impelled Him to so will. God's eternal will loving the infinite goodness of His divine essence prompted Him in His wisdom to ordain an *order of nature* which reflects the infinite goodness in the things created. This is *lex aeterna*, or as St. Thomas explains, "the eternal concept of the divine mind is the *ratio* of the eternal law in as far as it is ordained by God for the government of things which He foreknew."

The human intellect perceives this essential and necessary order of things in the creation and the government of the world and thus man's intelligence is said to participate of the divine and eternal *reason*. At the same time human reason sees the necessity of conforming to this order and expresses the necessity which is upon it by the word "I must". For whoever acknowledges the existence of this order and acknowledges that it exists by divine ordination by a spontaneous conclusion of his reason says, "I must," expressing thereby the necessity of subjection to the will of God, commanding it to be obeyed. Furthermore since nature and even divine positive revelation

sketch this order merely in its outlines it immediately appears to human reason that a further ordination of human life, whether considered individually or socially, is necessary. Human reason perceiving this necessity and grasping that it has in its power the active faculty of meeting it, sets about to thus further determine an order within the divine order for itself and for those who are subjects. Thus ordaining human reason becomes participant of the active excellence of divine reason and its ordination is but the complement and continuation of the divine.

Could man by an intuition see this order in God Himself, he would adore God as its author and creator. In this adoration he would be conscious of a formal necessity of obeying the order established. This obedience would be strictly *theological,* namely, in the sense that such obedience is due God because He is God.

However, here upon earth man can read this order only in things created, wherefore without a formal recognition of God the "I must" can be perceived and pronounced. For since the judgment "I must" is an *actus discursivus,* a logical deduction, it does not necessarily imply I must because God so wills, it may stop at the conclusion I must because sound reason so dictates.

Nominally an obligation is defined: "An objective, absolute necessity enjoined on the will."

Objective necessity is opposed here to subjective coercion or determination to one particular thing. It means, therefore, a necessity perceived by the intellect and placed by it before the will. It is absolute because just as physical necessity excludes any and all exceptions so, too, this moral necessity excludes every exception. The verdict is simply, "I must." It is enjoined on the will which feels itself psychologically bound, yet free.

The psychological definition would thus be: A moral obligation expressed by the word "I must" is a spontaneous

(not free) idea of a something which I must do. There is a consciousness that I am free and yet that there is a something which is extorted by a spontaneous command of my reason. Varying effects of sorrow or satisfaction, as the case may be, are the signs of these movements of my intellect and of my will.

This spontaneous act is explained to be a quasi innate and invincible appetite. It is invincible in the sense that, if I act contrary to it, I feel that I am doing something irrational. My speculative judgment is absolute in telling me "good is to be done, evil is to be avoided". My practical judgment tells me this act now to be posited is good and therefore must be done, or it tells me it is evil and must not be done.

All particular ends which man has are united essentially in one final end of man's whole life, namely his own personal happiness.

That there must be such an essential union of particular ends is proven as follows: (*a*) the very nature of an end demands that its good be obtainable, otherwise it cannot exercise a causal influence upon the will. Now a good which is infinitely distant and which can be obtained only by an infinite number of steps, as it were, is in reality unobtainable. Therefore, it cannot be an end. (*b*) Every man believing in God and in Divine Providence must plan his whole life in an orderly manner. In the order of intention the end comes first; in the order of execution the means to the end comes first. If, then, the particular ends and means do not converge in an essential connection to one ultimate end there can be no first and no last. Therefore, no orderly planned life.

This does not mean that the good of a particular end or of an act cannot of itself appeal as conformable to the dignity of man. Nor does it mean that no deliberate appetite for a particular good can be elicited unless it be referred formally to the absolute final end of man's whole life. Experience disproves this. What is asserted is: Every particular good end, which we intend, is intended because by its very nature it is

intimately united in some manner to the ultimate end of our whole life and is able to satisfy in part at least the infinite capacity, as it were, of man for the good. St. Augustine expresses this saying: "Man, lest he be miserable, is wicked and because he is wicked he is the more miserable. For the sake of doing away with misery and for the sake of acquiring happiness, men do whatsoever they do of either good or evil. They always wish to be happy, whether they live rightly or evilly. But all do not attain what they wish; all wish to be happy but they will not be, unless they live justly." [1]

This final end of man's whole life must be absolutely one. Every being strives for the full measure of perfection that is proper to its nature. Therefore, the absolute final end must so completely satisfy man's appetite for the perfection which is proper to his nature that there is nothing over or beyond this for which he really hungers.

This final end of man's whole life in the *natural order* is the knowledge and love of God, giving man that relative perfect happiness which is proper to his nature. In the *supernatural order* it is the vision of God's essence and the perfect love of friendship with God, in which is perfect happiness proper to God alone and as such entirely supernatural and absolutely over and beyond created nature.

This appetite is not necessarily the formal craving for happiness as if it were based on the following reason: I wish to be happy. But I cannot be happy unless I do good and avoid evil. Therefore I will do good and avoid evil. A self-examination will prove that we often feel that we are bound to do a thing, without thinking at all whether this act will bring happiness. Contrariwise, a person will not conclude that he is free of an obligation simply because he thinks the act will be a perversion of his own happiness; for instance, a materialist who convinces himself that there is no hereafter, may yet feel bound to sacrifice his life in war because he thinks

(1) In Psal. 52.

patriotism demands it. Such a one knows full well that the act of sacrifice is contrary to the only happiness he considers possible, to wit, continued existence here upon earth.

This dictate of obligation rather arises from that deep seated and inborn tendency to observe the order detected by reason, which inclination, *per consequens*, is called a rational inclination. "The virtues," says St. Thomas, "preexist in that natural predisposition to the highest good which resides in reason recognizing the good and then in the will naturally striving to attain it. Thus Cicero was right when he said that the germs of virtue are implanted in us by nature." [2] As nature in its being imitates and participates of the divine essence so, too, this rational inclination imitates and participates of divine holiness. "Since all things subject to Divine Providence are ruled and measured by the eternal law, it is manifest that they all participate to some extent in the eternal law, in as much as by the stamp of that law upon them they have their inclination to their several acts and needs. But among the rest the rational creature is subject to Divine Providence in a more excellent way, being itself a partaker in Providence, providing for itself and others." [3]

God's Providence is a decree of the eternal divine wisdom motivated by the love of His divine essence in holiness so, too, the decree of my intellect, "I must," springs from a knowledge of God's ordination and is motivated by the holiness of that divine ordination. On account of His holiness God wills the order of reason. On account of participating in this holiness man's will has a necessary inclination to the moral good and an aversion from doing moral evil.

Lest, however, we imagine that this inclination is a blind instinct, our own consciousness tells us that "I must" expresses more than an inclination or a propensity to do good. The "I must" remains even after we make up our minds to do contrariwise. Inclination would only lead to this conclusion:

(2) III Sent., dist. 33, q. 1, a. 2 c. (3) Summa I-II, q. 91, a. 2.

if you wish to follow your inclination you will do this. Now we all feel that "I must" is a much more absolute dictate than this. It abstracts from this inclination and tells me "I must", whether I am inclined to do so or not.

To sum up therefore this dictate of conscience, "I must" expresses implicity at least a perceived necessity to subject myself to the order to which by nature I am inclined. This subjection I perceive because I perceive that my nature is created and in consequence dependent. Wherefore it stirs up a consciousness, I must obey this superior. "I must" therefore signifies, not by a physical necessity or inclination, I will to do this, but by a moral necessity I am forced to do so. This moral necessity lies in the fact that I perceive myself to be subject and therefore I must obey, otherwise I will do wrong. I can physically indeed do wrong but morally I may not do it.

Just as the infinite necessity of God's holy will is explained by His sanctity, so our moral necessity is explained by our participated sanctity and the consciousness that we are subjects. Wherefore again not merely this participated sanctity, but this sanctity controlled by consciousness of our subjection imposes upon our will this moral necessity which we express by the word "I must". [4]

In the concrete, when placed face to face before the question what shall I do to act rightly, "the I must do this" is a practical judgment telling me this act is in conformity with the established order of morality, to wit, the eternal law; in its negative form it is the same practical judgment telling me I must not do this because this act runs counter to the established order of morality. In this sense we are said to be bound by the practical judgment because we recognize the command to be, as it were, the command of another who has authority to bind the will to posit this action.

(4) Cf. Vermeersch, Theol. Mor., vol. 1, Nos. 156, 157, 158.

Article III

Conscience

The dictate "I must do this or leave this undone" is generally called conscience. Etymologically conscience, derived from the Latin word, *conscientia*, means the common knowledge of many persons. In a derivative sense it is taken to mean: the "habitual knowledge of the principles of the eternal law congenital, as it were, to all who have the use of reason". [1] "Let no one," says St. John Chrysostom, "pretend to ascribe the neglect of virtue to ignorance or say he has no guide or no one to show the way. We have a competent teacher, namely *conscience*, of whose aid no one is deprived. For the knowledge of what is to be done and what is to be left undone is in man from the day in which he is formed." [2] In a further derived sense the term signifies the application of this knowledge to particular acts and likewise the estimate of an act placed, namely, whether or not it was in accordance with the moral law. Here we intend to use the term in the sense: It is "the application of knowledge to particular acts". [3] Or as Suarez describes it, "the actual and practical judgment of the intellect discerning about things to be done whether they are good or bad, right or wrong, commanded or forbidden." [4] Sanchez tersely unites the definition and the description saying: "Conscience is the judgment of reason proposing the object to the will as good or bad." [5]

The dictate of conscience is an act of the intellect or understanding. The very manner in which we speak of conscience as pronouncing judgment proves this. Further the will being a blind faculty needs a rule so that its deliberate act may be directed rightly. This rule must be of a kind that is actually

(1) Romans II, 12-26: "Who show the work of the law written in their hearts, their conscience bearing witness to them and their thought between themselves accusing or also defending one another" (ibid. 16).
(2) In Genesim Hom., 64, n. 1.
(3) St. Thomas, Summa I, q. 79, a. 12 et 13.
(4) Suarez, Tract III, disp. 12, s. 1, n. 5.
(5) Sanchez de praec. Dec. L. I, c. 9, n. 1. Cf. Bouquillon, Theol. Mor. Fund., n. 254.

present to us and actually directs us towards the object befitting our rational being. To thus direct is an act of the intellect. This directive force is a practical judgment because it directs us how to act or rather how to do. It does not pronounce the judgment "this is true", but the judgment "it is true that I must do or not do this". It is further said to be practico-practical because here and now it applies the practical judgments of doing, such as: thou shalt not steal; give to each one his due; honor thy father and thy mother; to acts which must be done by me here and now. [6]

The judgment which discerns whether the thing to be done is in accordance or not with right reason after the thing has been done passes the verdict whether it was right or wrong. This verdict stirs up in the will varying affections of joy, peace, fear, anxiety, sorrow, remorse, as it is favorable or unfavorable. This is called the *conscientia consequens.* It is not a something new added to or different from the *conscientia antecedens.* It is the same conscience, distinguished as it is, looking to the present or to the past. It is not mere sentiment, it is a judgment which connaturally stirs up these varying affections which are not conscience but the effects of conscience. [7] The fact that some, who are keen in discerning right from wrong, are sluggish to react to such judgment does not necessarily demand that conscience be likewise of the will. The intellect does not rule the will slavishly but diplomatically. Knowledge alone does not make a good man. The *scintilla animae,* of which the mystics speak, is reason's participation of the infinite truth and the will's participation of the infinite good. One can put down conscience but one cannot quench this spark, because it is connatural and congenital to the intellect and the will.

Some moderns [8] have revived the opinion said to be of the older Franciscan school, namely, conscience is not exclusively

(6) Frins: Actibus Humanis, vol. III, 66.
(7) l. c. 69.
(8) Koch-Preuss, vol. I, pp. 186-193. Linsemaier, Moraltheologie, §29, 2.

of the intellect but is likewise of the will. This was the opinion of Alexander of Hales. St. Bonaventure cannot be invoked in its favor. His distinction was between conscience and synteresis, the latter being the habit of first principles of morality. St. Bonaventure made it a habit of the will, describing it as a "weight on the will inclining it to the good". But few of the scholastics accepted this distinction, they claim synteresis, too, is of the intellect. [9]

Conscience thus differs from synteresis—the one is a habit, the other an act of the intellect. It differs, too, from conscientiousness, which is a habit of the will to follow the dictates of conscience quickly, readily and easily. It differs from prudence, which is the right estimate of circumstances in the order of obligation, and from the science of moral theology, which is the knowledge of the general conclusions. All of these are helps and means to form a right conscience or judgment. [10] Conscience is thus the herald proclaiming the eternal law to the individual for his individual guidance. Wherefore one is bound to follow it. Erroneous conscience, known as such, must be corrected. Since conscience is a judgment it must be certain about the obligation: if reason wavers it must use reflex principles to become stable, such as a doubtful law does not oblige. This is called forming conscience. The judgment then pronounced is: it is true that in this circumstance I may or may not do this act.

The objection raised especially in non-Catholic schools of morals, namely, to proclaim conscience as the herald applying an external law to our actions is against human dignity, was answered by St. Thomas. Real conscience, they claim, exists only there where the inner voice which urges to do good and warns against evil, is the dictate of man's own nature and not that of a superior will. St. Thomas teaches that man's dignity lies chiefly in this: "He is his own lawgiver, since he instructs

(9) Frins, l. c. 65.
(10) Bouquillon, l. c. 254.

himself and urges himself on to that which is good." [11] "But just as in the theoretical recognition of truth reason has no creative activity, but has to conform itself to a reality infinitely higher than itself, so in its practical activity reason is not a creative and final norm but rather a means of making known a higher and infinitely perfect will." [12]

St. Thomas carefully distinguishes between the influence of external rules and the interior voice of conscience. He says: "Although many things are not evil because forbidden by an external law, they are nevertheless evil because forbidden by an interior law. For the interior law is the light of reason itself, by means of which we discern what we have to do. Any human action which is in keeping with this light is good; whatever is contrary to it is unnatural to man and evil, and is termed evil in as much as it is forbidden by the interior law."

Article IV

Sin

Man is responsible only for his human acts; these and these only does he place in his true capacity as a man, namely, as a free moral agent. This responsibility is either unto merit or demerit, in as far as the object to which the act goes out is in conformity or deformity with the law of God. The object, however, is to be taken in the concrete, i.e., with all the attend-

(11) In Epist. ad Romanos, c. 2.

(12) Summa I, II, q. 71, a. 6. In L. II sent., dist. 42, q. 1, a. 4, ad 3. Cf. Catholic Moral Teaching and its Antagonists, by Joseph Mausbach, translated by A. M. Buchanan, Part II, chapter 1. Wagner, New York.

Duns Scotus was generally credited with being an extreme Indeterminist in his discussions on Free Will, and a forerunner of Kant. This view has been much changed since the publication of the epoch-making work of P. Ephrem Longpre, O.F.M., entitled La Philosophie du B. Duns Scotus (Paris, 1924). Examining critically the works attributed to Scotus, the learned Franciscan proves that the De primo principio, Quaestiones in metaphysicam, Opus Oxoniense, Reportata Parisiensia are certainly authentic; but that the De reum principiis and the Theoremata were not written by the Subtle Doctor, and that the other works attributed to him are of doubtful origin. Specifically with regard to questions of Fundamental Moral Theology this new review of the opinions of Duns Scotus has brought the avowal from M. De Wulf that Intellectualism according to Scotus dominates the whole question of conduct; that the morality of acts depends foremost on the object and the end relative to the dictate of reason, that the Doctor Subtilis explains conscience, synteresis, right reason, prudence in intellectualistic terms just as the Angelic Doctor does. De Wulf, Histoire de Philosophie Médiévale. Fifth edition, vol. II, p. 80 (Paris, 1924-25).

ing circumstances and with the end or purpose the agent has in view.

This law is brought home to man by his conscience, which in a practical manner tells him what is to be done or left undone in the given circumstance. This practical judgment is formed by the study of nature, namely, of things as they are, i.e., in the order in which God stands to man, man stands to God, and to fellowman. This study is made more easy, more definite and more certain by the study of the positive law given by God directly through revelation, or indirectly through human authority, acting in His name and in His stead.

Man senses that he is free, unless his will is securely tied down by law. The "I must", motivated by the intellect's participation of the divine truth and the will's participation of the divine sanctity, is therefore only pronounced when conscience, by a present, practical judgment (which means certainty), tells him in this circumstance you are bound.

Man when he acts according to this dictate of conscience is responsible unto merit; contrariwise, if he acts against it, he is responsible unto demerit.

The good of the being (of the object) must be brought to the will and specified for it by some other faculty. The God-given true guide is *reason*. The appetibility of the object able to draw the will is objective, it is in the being of the object itself, but it cannot present itself to the will, except through a cognitive faculty.

The intellect forms the idea of a universal good which no particular good can exhaust and tells us that it exists, not indeed in its universal form, but particularized in the things that are. Naturally, we strive for happiness, but as it is determined in this or that particular good. "The good is present in things in two ways," says St. Thomas, "to wit, in the ordering of one thing in its relation to another and in the ordering of things in their relation to the ultimate end. . . . . .And as things are ordered to their ultimate end through the agency of their

own particular end their relation to their ultimate end varies according to the diversity of their own particular ends. We say therefore as the ultimate end of all being is one, to wit, God; so also the ultimate end of all volition is one, to wit, God. This, however, does not touch the particular ends and when in accordance with these ends, the right relation of the will to the ultimate end is secured, the will is morally good; if not, it is morally perverse." [1] Hence, we are free to elect whichsoever good we choose. And it is exactly this liberty which makes it possible subjectively for man to sin.

"The rational mind naturally is drawn to happiness, universally and indeterminately, and in this it cannot fail, but the movement of the created will is not determined to seek this or that particular good, and thus in seeking happiness one can sin, if he seeks it where it ought not to be sought, as for instance, he seeks for happiness in sensuous pleasure. This holds for all good, for nothing is sought except under the guise of good, as Dionysius says (cap. IV de div. nom.). It is thus because the appetite of the good is natural to the mind, but not the appetite for this or that particular good, and hence man can fall into sin." [2]

St. Thomas defines sin to be a "bad moral act". [3] Not, however, as if he wished to range a good or bad moral act as a species under the genus moral act. There is no common factor in moral acts which allows one to predicate good or bad of them indifferently.

When one says it is a moral act, he already says of necessity, good or bad, just as when we say "being", we necessarily insinuate a certain kind of being.

Further, though we speak of a "theological specification" of sin into mortal or venial, they are not philosophical or natural species. Sin, strictly speaking, is only one, namely, mortal. Venial sin participates of sin in a diminished ratio. (Cf. below.)

(1) In II sent., dist. 38, q. 1, a. 1, c.
(2) Quaes. disp. de veritate, q. xxiv, a. 7 ad 6. Cf. ibid., art. 8.
(3) Summa I, II, q. 7, a. 6.

Essence of Sin—Sin, in as far as it is a bad act, implies a privation of good, since it is a receding of some kind from the order of reason. In as far as it is a moral act, it is a going out to a good, toward which the appetite is inordinately drawn. Bad as such, does not appeal to the appetite, which goes out to bad only under the guise of good, or as it is joined to a good which we love. Bad is, therefore, voluntary only *per accidens*. Though the whole act is corrupted and is bad, yet in the election of the bad, under the guise of good, a vestige of the positive order remains. Wherefore St. Thomas says: "*Malum in moralibus est quoddam bonum adjunctum privationi alterius boni.*" [4] In the physical order, there can be a total or a partial privation of good, as for instance, deafness and hard of hearing, but in the moral order, the positive appetence is totally bad because it lays the foundation for the election of the bad.

"Though the sinner does not wish the deformity of sin, none the less, the deformity of sin comes under the will of the sinner who elects to incur the deformity rather than to refrain from the act." [5] Before the tribunal of conscience sin is presented under a double aspect: Reason sees the delectable good coming from the sinful act, but at the same time sees that it is against the order of nature. In temptation, there is a conflict between the appetibility of the object and the law, but when the sinful act is posited, the sinner directly and primarily wills the delectation, but since it cannot be enjoyed without the deformity, he wills this indirectly. Though indirect, the choice is positive, for as St. Thomas explains: "He who wills to enjoy a pleasure so vehemently that he does not refuse to incur the deformity which he perceives to be joined to it, is said to will not only the good which he wishes principally, but likewise the deformity which he chooses to suffer rather than be deprived of the good desired." [6]

(4) Summa I, q. 48, a. 1 ad 2 et I, II, q. 73, a. 2.
(5) S. Thomas, de Malo, q. III, a. 2, ad 1.
(6) De Malo, q. III, a. 2.

But how can a man positively choose that which he knows to entail a deprival of his real good?

The answer to this riddle is found in the cognitive process of man's reason. The passive intellect contains nothing except what it has inferred from the senses: "*Nihil est in intellectu quod prius non fuerit in sensu.*" The senses are the foundation and origin of human knowledge. Sensible reality acts on the understanding by means of the phantasm or the image from which the active intellect forms the impressed intelligible species. This, by its action on the possible intellect, gives rise to the expressed species, "*verbum mentis,*" or idea.

Now, "more men," says St. Thomas, "follow the beginning of things, rather than their consummation." [7] Wherefore more men will follow the inclination of the senses than the order of reason.

The affections of the senses are called passions because the agent (the object presented to the senses under the guise of a good) little by little changes the connatural state of the patient to one which is more in harmony with the agent. The state thus brought about changes the viewpoint, inclination and disposition of the patient towards the particular good which thus appears more agreeable and fitting to the appetite and draws it more strongly. "Such as a man is, such the end will appear to him." [8]

Such stirring up of the appetite can be to either good or bad moral acts, because of the preponderant part played by the sense passion in sinful acts; in the every day language it generally has the meaning of something morally wrong. Under the influence of passion a vice is easily begotten but it can, too, be turned to good advantage and beget virtue. "Since," says St. Thomas, "human nature is a composite of body and soul and of an intellectual and sensitive nature, it pertains to

(7) Summa I, II, q. 71, a. 3.

(8) Summa I, II, q. 22, a. 1 et 2. De verit, q. 26, a. 3, dist. 15, q. 2, a. 1. Aristotle Ethica 3, c. 4.

the perfection (good) of man to subject his acts to virtue his whole being, to wit, this intellectual and sensitive part and the body." [9] As either virtue or vice thus dominate, the sense appetite will be a help or a detriment to positing good moral acts. For, says St. Thomas, "as is manifest, man is changed in his dispositions according to his sense appetite so that when he is in a certain passion a thing will appeal to him as fitting, which would not so appeal if he were otherwise disposed. . . . and thus the sense appetite moves the will, not indeed in a despotic manner as a slave is ruled but in a diplomatic manner as free citizens are ruled." [10]

Not only sense objects but likewise the immaterial goods such as honor, glory, fame, self-interest, family pride, etc., can affect the appetite in an analogical manner. The former attract through the senses, the latter play more directly upon the will. Both can have this effect antecedently to and beyond the judgment of the intellect. Because of his composite nature they are connatural to man. They present a connatural good to the appetite, they insinuate themselves gradually and suavely and then draw the will with great force. The will readily reacts and yields to them. If then these goods be of evil in the order of morality, the will, being thus affected and changed, as it were, in its most intimate nature, neglects the higher good for the sinful. Under the eagerness of the will reason ceases from considering the right rule, and thus the will produces the act of sin. [11] "Man naturally is intent by his senses and by his mind upon the things agreeable to the appetite." [12] These movements, in as far as they are spontaneous, affect the freedom of choice in the sense that the will is not as free as it would otherwise be, but there is no coercion from without, the force is entirely connatural to the will which goes out to it voluntarily and even, perhaps, more so than

(9) De Malo, q. 12, a. 7.
(10) I, II, q. 9, a. 2, et ibid., ad 3. Cf. etiam ibid., q. 10, a. 3.
(11) Summa I, II, q. 55, a. 2, ad 1.
(12) Frins, De Actibus Humanis, vol. I, p. 317.

when it is not under the spell. The eagerness of pursuit has been heightened in the will. [13]

But all sins cannot be ascribed thus to sense-passion *subjectively*, as for instance the sins of infidelity. Even the sins of the sense-passions often have a deeper foundation in fact, namely, inordinate self-love. In the words of St. Francis de Sales: "No doubt the will rules love, since she loves as she chooses, and among the many loves presented to her affection she chooses as she prefers: but having chosen one, she lives in it and is ruled by it and thus the will takes on the qualities of the love she has espoused." This explains the seeming paradox: we sense that we are free and yet at the same time we seem to be slaves. Now man loves himself as a totality, he loves both his sensitive and his rational and spiritual being. The good love their sensitive being as it is subservient to the rational; the bad make their spiritual being subservient to the sensitive. And thus, a friendship arises between man and either his interior or his exterior self. Now argues St. Thomas: "Five things enter into friendship: First, the friend wishes his friend to be and to live; secondly, he wishes him "good"; thirdly, he strives to procure this good for him; fourthly, he enjoys his company; and lastly, he is one with him in weal or woe. Thus the good love themselves according to the interior man, whom they wish to retain in his integrity; they wish him goods which are spiritual; they strive to gain them for him; and enjoy returning to their own hearts, because therein they find good present thoughts, the reminiscences of past good and the hope of future goods. This causes enjoyment and they will not allow any dissension in themselves, because they love themselves wholly. Not so the wicked: they do not care for the integrity of the interior man, nor are they drawn to his

(13) Summa I, II, q. 77, a. 1: "For the corruptible body, says the Book of Wisdom, is a load upon the soul, and the earthly habitation presseth down the mind that musseth up many things" (9, 15). And "the bewitching of vanity obscureth good things and the wandering of concupiscence overturneth the innocent mind" (4, 12). "As long as reason remains free and not enslaved by the passion the movement of the will which remains does not necessarily tend to the object to which passion would sway" (Summa I, II, q. 10, a. 1).

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spiritual goods; nor do they strive to attain them; nor do they enjoy living with themselves, by returning to themselves, for there they find evils, past, present and future, which they abhor; nor are they in agreement with themselves, because of the remorse of conscience which, according to the Psalmist, says to them: 'I will accuse them and stand before their faces.' And thus the wicked prove that they love themselves according to the corruption which is of the external man." [14] Such inordinate self-love is the source of many sins.

The final source of sin lies in the pride of our own excellence. The sinner acting freely and voluntarily, knows full well that his act is against the law of God. Even while he is placing his act, conscience is accusing and reproaching his disobedience. The spark of truth radiating in him from the effulgence of the eternal truth makes him see that the act does not tend to the true good, and the last ember of the dying love for this law, enkindled by the participated eternal holiness, would again inflame for this law, but yet he chooses the disobedience and even forces the practical reason to admit that it is better to follow his own bent than to submit to reason, regulated by divine law. His self-sufficiency and inordinate self-love prompt him to admit no other law or command than his own self-shaped rule and bent. "Just as," says St. Thomas, "charity by the diffusion of its command is common to all virtues and therefore is called the form and mother of all virtues . . . . thus, too, pride by the diffusion of its command is the common sin of all, wherefore it is called the root and queen of all vices. . . . . .If one look to the effect one will find it in every sin, for the effect of pride is to refuse to be subject to the rule of a superior." [15]

From these considerations we gather: (1) If we could see God by a direct intuition, we would see that our happiness is so intimately bound up with the observance of the natural

(14) Summa I, II, q. 25, a. 7.
(15) De Malo, q. VII, a. 2, et ibidem ad 11, 12, 13, 16, et 11 Sent. dist. XLII, q. 1, a. 3, q. 11, a. 3 ad 1.

order, that these two things, our happiness and the observance of the law, are inseparable. The opposite choice entails a rejection of the true good and on the part of the agent, *finis operantis*, and implicitly, a renunciation of the ultimate end and of God. He who forces his practical judgment to thus pervert the order of nature, errs, is imprudent in his judgment, is malicious of will, and practically deserts the one way which leads to eternal life.

(2) From this it follows that the sinner is guilty unto punishment: "Where there is an order ordained unto an end, it is necessary that this order lead to the end, and contrariwise, receding from the order, excludes the obtaining of the end. For those things which derive from the end are necessary because of the end, so that they are necessary if the end is necessary, and likewise if they are present, without impediment, the end must be obtained. But God has made an order for the acts of men, relative to the ultimate end. Wherefore it is necessary if the order is rightly placed that those who walk according to this order be rewarded and that those who recede from this order be excluded from the end of the good, i.e., they should be punished.[16] This exclusion must be for all eternity. "Man, by virtuous acts, in which the intention of the end is principally inherent, obtains his ultimate end, which is happiness. But if he acts against virtue, turning away from the ultimate end, it is proper that he should be deprived of his ultimate end."[17] Sin therefore, in as much as it is *per se* voluntary, is a deed, saying or appetence against the law of God, or as it is popularly expressed, a thought, word or deed against the law of God. (The word "thought" here stands for any merely internal act.)

Sin, in as far as it is bad, is a turning away from God, the ultimate end, by a voluntary turning to a commutable good.

"Wherefore," says St. Thomas, "a venial sin is not against (*contra legem*) but is beside (*praeter legem*) the law." Venial

(16) Contra Gentiles III, c. 143. (17) Ibid.

sin is predicated (*analogice*), according to an imperfect reason, relative to mortal sin, as accidents are predicated as being relative to substance in an imperfect reason of being. It is not against the law, because he who sins venially does not do what the law forbids, nor does he omit what the law prescribes by precept, but he acts beside the law, because he does not observe the mode of reason which the law intends. [18]

Yet God hates venial sin because this mode of reason is repugnant to His infinite goodness, and for the same reason venial sin excludes from the vision of God as long as it remains.

Article V

Moral Indifference and the Perfection of Free Choice

Moral indifference, by which is here meant the potency to elect that which is morally wrong, i.e., to commit sin, is an imperfection not a perfection of the faculties which come into play for a free choice.

Leo XIII, in his Encyclical Libertas, after having established that free choice is an act of reason and of the will, continues: "Since, however, both these faculties are imperfect, it is possible, as is often seen, that the reason should propose something which is not really good, and that the will should choose accordingly. For, as the possibility of error and actual error are defects of the mind and attest its imperfection, so the pursuit of what has a false appearance of good, though a proof of our freedom, just as a disease is a proof of our vitality, implies defect in human liberty. The will also, simply because of its dependence on the reason, no sooner desires anything

(18) Summa I, II, q. 87, a. 1, ad 1.

On the discussion whether positive imperfections, namely, omissions of acts to place which a person is particularly invited or of acts, all circumstances being duly weighed which are undoubtedly better, are venial sins. (See Hugueny, O.P., Revue du Clerge Francais, t. 53, pp. 641 sqq.) Who defends that such imperfections are venial sins; Garrigoue-Lagrange, La vie spirituelle ascetique et mystique (St. Maximin-Var., Sept., 1923, pp. 583-592.) Who defends they are not venial sins, Vermeersch concludes: This much is certain men generally are in no wise obliged, to elect what is better it is sufficient to direct one's acts according to the norm of morality (Theol. Mor., vol., I, p. 424).

contrary thereto, than it abuses its freedom of choice and corrupts its very essence. Thus it is that the infinitely perfect God, although supremely free, because of the supremacy of His intellect and of His essential goodness, nevertheless cannot choose evil: neither can the angels and saints, who enjoy the beatific vision." [1]

St. Thomas proves how this imperfection affects both the reason and the will—the two faculties which preside over freedom of choice and from whose mutual and intimate union the act of free choice springs. "Free will," he says, "in its choice of means to an end is disposed just as the intellect is to conclusions. Now it is evident that it belongs to the intellect to be able to proceed to different conclusions, according to given principles; but for it to proceed to some conclusions by passing out of the order of the principles, comes of its own defect. Hence it belongs to the perfection of its liberty for the free will to be able to choose between opposite things, keeping the order of the end in view; but it comes of the defect of liberty for it to choose anything by turning away from the order of the end; and this is to sin. Hence there is greater liberty of will in the angels, who cannot sin, than there is in ourselves, who can sin." [2] Wherefore in as far as sin implies an aversion from the ultimate end, both the intellect and the will choosing to commit sin denature themselves, stripping themselves, as it were, of their essential perfection, namely, to be guided by and to follow their natural principles. That the intellect by reasoning should be able to split up its natural light into its various rays and colors and thus find new truths deduced truly from its first principles, is a perfection, but that it should dim or totally darken the light of these its first principles, is a defect; thus, too, that the will by its act of choice should endeavor to exploit the richness of good which lies buried in its ultimate end, is a perfection, that it should

(1) Libertas, op. cit., p. 138.
(2) I, q. 62, a. 8, ad 3, et I, II, q. 71, a. 2.

follow a false light and dig in a false direction, where good cannot be found, is a defect. [3]

To sinners the words of Jeremias, the prophet, are applied: "My people have done two evils. They have forsaken me, the fountain source of living water, and have digged to themselves cisterns, broken cisterns, that can hold no water" (2, 13). This second element of sin, namely, seeking the ultimate end in a created good, is a like perversion of the freedom of choice. "Since choice is either a judgment about things to be done or follows upon such a judgment, it can only be in things which are subject to our judgment. Now judgment of things to be done is based on the end just as judgment on conclusions is based on principles. But we do not judge of first principles by examining them, we assent to them naturally and judge all other things by them, thus, too, in appetible things we do not judge the ultimate end by a judgment of discussion or examination but we naturally approve of it. Hence there can be no choice of the ultimate end; there can be only a striving for it." [4] Thus the sinner arrogates to himself a judgment and a choice which nature does not and cannot allow.

The sinner attempting to satisfy his striving for the good chooses the apparent for the real. He is digging "broken cisterns which can hold no water". Good is the fullness of being and in consequence the highest reality. "Knowledge is of things as they exist in the knower but the will is directed to things as they exist in themselves." [5] Wherefore to force the will to satisfy its craving with a phantom good perverts its very nature. "Sin," says the Angelic Doctor, "coming under the free choice does not destroy essentials, otherwise free choice would not remain, but by sin a something is added, namely, a joining, as it were, of free choice with a perverse end which it would effect for it." [6]

(3) "As the intellect is to reason so is the will to the power of free choice," I-II, q. 1, a. 2.
(4) Quaest. disp. de verit., 24, a. 1, ad 20.
(5) I, q. 19, a. 3, ad 6.
(6) Q. disp. de verit., 24, a. 10, ad 14.

Creatures should be means to the end; the sinner makes them the end itself, and herein, says St. Augustine, "All human perverseness lies, *using what we should enjoy and enjoying what we should use.*" [7] The natural tendency to the ultimate end gives man the means to enjoy the good; but the sinner perverts the order: he uses the ultimate good as a means and enjoys the created good, which nature has given him as a means in this striving, as if it were the end of his longing.

Thus man, when he freely chooses to sin, steps beyond the limits which the very nature of freedom has set for him and thus abuses instead of uses and perverts instead of perfects it. The blessed in heaven enjoying the beatific vision possess and enjoy the good in all the fullness of its being; they cannot err as to what is good, they cannot chase after a phantom good, they cannot try to content themselves with the means as if it were the end and are thus in the fullness and perfection of their freedom.

Article VI

Moral Insanity

The human will being, just as is the intellect, of a spiritual nature, no sense infirmity or affection can directly destroy or lessen the will power in itself. There can be no soul sickness in this sense. But just as bodily sickness, derangement of the external or internal sense organs can and do cause false ideas, judgments, and reasonings both transiently and permanently and thus cause intellectual insanity, like derangements might cause moral insanity. It is claimed, and with a show of proof, that there are persons whose intellectual powers are otherwise normal, who have a well developed theoretical knowledge of right and wrong, who can readily enumerate even the finer distinctions of morality, but who in their actions show that they have no practical moral sense. Their theoretic

(7) S. Aug. lib. 83, qq. 30, quoted I-II, q. 71, a. 6, obj. 3.

knowledge of moral obligation seems to awaken no sense of responsibility, call forth no reaction of the will, and furnish no motive for the practical exercise of morality.

The question is not one of mere depravity arising from the vehemence of unchecked passion or inveterate vice, nor yet of sickness of the sense organs which affect sense perception, memory or phantasy. All of these are accounted for in the interplay of the senses and the intellect and, of course, enter largely into the subjective guilt or innocence of the agent (formal sin).

"The intellect of necessity," says St. Thomas, "receives from the lower apprehending powers, wherefore if the imaginative or cogitative or memorative power is disturbed, of necessity the action of the intellect is disturbed. But the will need not of necessity follow the inclination of the inferior appetite. For though the irascible and concupiscible passions have a certain power to incline the will, none the less it remains in the power of the will to accept or refuse the passions." [1] "The intellect in its present state cannot function unless it converts itself to the phantasms, the will can will something using the judgment of reason and not following the passion of the sensitive appetite." [2] This explains how, unless temptation or concupiscence overcome the use of reason, man can resist. Wherefore in order to account for moral insanity we must find a derangement or disease of a sense organ which destroys the practico-practical judgment of the intellect. Those who admit with the Thomists against the Scotists [3] that the intellect cannot form direct judgment of particulars and claim that the intellect is of necessity dependent for such judgment on a fourth internal sense with comparative powers, find the derangement or defect in what is called the cogitative power. This power, they say, is somewhat akin to the instinct, *vis aestimativa*, of the brute. They place it on the borderline between the

(1) I, q. 115, a. 4.
(2) I, q. 111, a. 111, a. 2 et 3.
(3) Donat, S.J., Psychologia, Innsbruck, 1923, n. 243 et 251.

sensuous and the intellectual, making it as it were, a distention of the intellect and of reason into the sensuous. [4]

St. Thomas speaks of this power: "The animal needs to seek or to avoid certain things, not only because they are pleasing or otherwise to the senses but also on account of other advantages, uses or disadvantages, just as the sheep runs away from the wolf not on account of its color or shape, but as a natural enemy; and again, as a bird when it gathers together straws not because they are pleasant to the sense, but because they are useful for building its nests. Animals therefore need to perceive such intentions which the exterior sense does not perceive." "The power which in other animals is called the natural estimative, in man is called the cogitative, which by some sort of collation discovers these intentions (particulars as against universals). Wherefore it is called the particular reason . . . . for it compares individual intentions just as the intellectual reason compares universal intentions." [5] In explanation of this the following passages of St. Thomas can be quoted: "The mind concerns itself about individuals *per accidens*, in as far as it is distended toward the sense powers which deal with the individual." [6] "The right estimate about a particular end is called both understanding in so far as its object is a principle, and sense in so far as its object is a particular. This is what the philosopher means when he says (Ethics VI) of such things we need to have the sense, and this is understanding. But this is to be understood as referring, not to the particular sense whereby we know proper sensibles, but to the interior sense whereby we judge of a particular." [7] "This power which the philosophers call the cogitative is on the border line between the sensitive and the intellective, where the sensitive touches upon the intellective. It pertains to the sensitive because it considers particular forms, to the

(4) l. cit., nos. 168, 169, 170.
(5) I, q. 78, a. 4.
(6) Quaest. disp. de verit., 10, a. 5.
(7) II, II, q. 49, a. 2 ad 3.

intellective because it compares." [8] Now the practico-practical reason which gives the final verdict about a thing to be done at this moment, must of necessity depend on this understanding and evaluation of the particular and therefore on the cogitative. And since the will elects in accordance with this dictate of the practico-practical reason it, too, thus depends on the cogitative. For this same reason St. Thomas makes the cogitative play a large role in the exercise of the virtue of prudence. "The reasoning of prudence must proceed from a twofold understanding. The one is cognizant of universals, and this belongs to the understanding, and is an intellectual virtue. The other understanding which is a part of prudence, is a right estimate of the particular end." [9] He explains that shrewdness, which is "an easy and rapid conjecture in finding the middle term", [10] namely the particular or individual end, and circumspection and caution are large factors in the exercise of this virtue, and since they deal with particulars, of necessity depend largely on the cogitative. Accepting this theory, it is readily understood how a derangement or disease of the cogitative affects the will by blunting or even destroying what is called the moral sense, or moral feeling, or moral emotion. The cogitative in as far as it belongs to the sensitive, depends on the health of the bodily organ or organs it uses, which like all other organs can be affected by sickness. St. Thomas places this organ in the middle of the head. Moderns differ greatly in their opinion as to which organ is the seat of this estimating and comparing power.

This being the case we can understand how, though the particular sense may fittingly announce the phenomena, the phantasy may fittingly form the sense image and yet the cogitative will not react fittingly. We, too, can understand how the speculative reason may still be sound in the judgment of the universal and yet the practical reason because of its

(8) In Sent. III d. 23, q. 2, a. 2 sol., 1 ad 3.
(9) II-II, q. 49, a. 2, ad 1.
(10) II-II, q. 49, a. 4, 7, 8

enchainment with an unsound cogitative is helpless in forming a concrete operative judgment. [11]

It would be a fatal mistake and an exaggeration to deduce from these considerations that the cogitative gives the final verdict on moral acts to be placed. The real practical intellective reason does this. But just as the speculative reason, in the earthly life of persons, must of necessity work with and upon the phantasm supplied by the senses for its knowledge and judgment of the universal, so, too, the practical reason depends for its final reflex judgment of individual intentions on the material supplied by the cogitative. And under the spell of a blunted diseased cogitative the will, though entitatively free in the exercise of its acts, is hampered.

This sense perception of moral values is awakened in the child long before the reason becomes active and explains how children of tender age know right from wrong in concrete cases at times with astounding accuracy. From this the pedagogical value of the cogitative in the early formation of the affections is apparent. Sincere parents and teachers will be quick to take advantage of it. The first germs of the so called child virtues, namely, the sense of shame and self-respect lie in the cogitative. Cultivating these, a sense-sentiment of respect for parents, teachers, play and classmates can be cultivated. By arousing self-respect and esteem, habits of application, behavior and unselfishness can be formed. However in doing this every endeavor, too, should be made to gradually lift these sense-habits to the higher plane of intellectual and supernatural virtues. For though the supernatural presupposes and is built up on the natural there is no real virtue in the concrete unless it be vitalized by the supernatural. Just as in infant age the germs of sense-valuation and intellectual judgment are gradually coming to bloom, so too the supernatural in these children by the grace of God which is in and with them is coming to fruition.

(11) For a fuller discussion of this problem see: Die Menschliche Willens-Freiheit von Dr. Karl Schmidt, O.S.B., Engelberg, Switzerland, 1925, pp. 156-163 and 194-203.

CHAPTER TWO

The Virtues

I. Our English word, virtue, is derived from the Latin word, *virtus* (*vir*), denoting, manly goodness, manhood and, then in a further sense derived from this, a certain disposition and quality befitting man as a rational being. Such a quality perfects either the cognitive or the appetitive faculties; and thus a division is made into intellectual and moral virtues. Strictly speaking, manly goodness and, hence, virtue can only be predicated of the moral virtues: the former would more properly be called habits. Aristotle and St. Thomas enumerate five such intellectual habits.

1. *Understanding*: a quality of mind which gives an expertness to apprehend clearly and fix firmly the principles on which all our thought processes depend; from which thought begins, and around which thought revolves, they being the starting point and radiating center of all thought.

2. *Science*, by which the mind is made expert to see the inner relations of things, deducing one truth from the other, and linking the discovered truths with one another especially along the lines of causal relation.

3. *Wisdom*: the quality of mind disposing to bring all things back to the first truth and principle and final end of all being, namely, to God.

4. *Art*: the general knack and bent of arranging and grouping the outward expression of the inward thought processes.

5. *Prudence*, which, however, since it is the practical reason of right conduct, belongs rather to the moral virtues (see below).

II. The merely intellectual habits denote good, but with a qualification and restriction; namely, good in as far as it is truth. Of course, truth makes us more like unto God, brings us nearer to Him, and thus perfects our nature, making it more like unto God; moreover a greater knowledge influences our moral life, but yet it does not perfect our moral being. An eminent philosopher might possess all the intellectual habits, barring prudence, and yet lead a very immoral life. True manly goodness, true manhood implies morality, wherefore the term, *virtue*, strictly such, is applicable to the moral virtues only.

III. Virtue is defined by Lactantius: "To do good and avoid evil." [1] However, the term, virtue, implies a permanent disposition, not merely a transient act; and, as such, is defined: A habit of doing good. A habit is a permanent disposition to act in a certain definite manner. It perfects or impairs the faculty in which it resides either, entitatively, as ill health impairs the vigor of the body, or operatively, as prudence perfects the practical intellect. The moral virtues perfect man operatively.

Thus we arrive at a more complete definition of virtue: Virtue is an operative habit to do good and to avoid evil. Good here means the moral good, conformity to right reason, which, in the ultimate analysis, means to the "reason of God". This reason of God is not a mere fiat of His will, but is the effluence of God's will, governed by His wisdom and benevolence. An act is good, therefore, if it conforms to that standard of morality which the order of things in the world demands. Good or bad is imputable to human acts only, namely, acts either elicited or commanded by the will of its own free choice. A virtue is therefore an operative habit of placing good human acts.

The definition, which St. Thomas borrowed from St. Augustine, in reality does not differ from this. Virtue, he says,

(1) De Divin. Inst., 1. 6, c. 5 (M. 6, 649).

is a good quality or a habit of the mind, by which man lives rightly, which no one uses evilly, and which God operates in us without us.[2] To posit good human acts means to live rightly; to place evil human acts means to forsake virtue. The clause, "which God operates in us without us," refers to the supernatural virtues. However, since all men are elevated to the supernatural state and this is the destiny of all, the supernatural virtues are the only really good habits (see below).

IV. (*a*) Habit is different from power. Virtue presupposes the power to act. It is not the power of doing good, for even the wicked have such power; if it were otherwise the wicked could not commit formal sin.

(*b*) Nor is virtue the act itself; for, otherwise, nobody could have a virtue except at the very time he acts, whilst, in fact, man may have a virtue, though he never places an act of that virtue. For instance, a hermit in the desert may have the virtue of justice, though he neither has nor will have an occasion to posit an act of justice.

(*c*) Virtue differs from the affections and passions. Affections are the stirrings of the rational appetite; passions are the stirrings of the sensuous appetite. Virtues are not the stirring either of the rational or of the sensuous appetite. They are the forces which excite such stirrings.

The passions and the affections are morally neither good nor bad in themselves; but virtue is always good.[3] Reason holds the passions and affections to the moral good; hence, the stirrings have their beginnings in the appetite and their terminus in the reason, whilst reason stirs up the virtues which in turn stir up either the passions or the affections, and thus they have their beginning in the reason and their terminus in the appetite.

(*d*) The common opinion, taught in the schools of the Church today, holds that there is a difference between the

(2) Summa, QLV, art. 4.
(3) Summa, 1, 2, q. 49, art. 1.

gifts of the Holy Ghost and the infused virtues. In name, purpose and object to which they tend they are the same. The difference lies in the motive power which stirs them up. The virtues are stirred up by reason elevated to the supernatural state and illuminated by faith; the gifts of the Holy Ghost (which of course are different from the *charismata*, which are in the wicked as in the just,) are stirred into action by a special direct movement of the Holy Ghost. They prompt the virtues to act more quickly by an almost instinctive movement, which, however, is still under command of the free choice of the will.

V. Since all moral acts are human acts and all human acts are either elicited or commanded by the will, it follows that the subject, wherein virtues reside, must be principally the will. They can reside in the other faculties only in as far as these faculties are under the command of the will. True, sometimes virtue and good are predicated of acts of the intellect considered without reference to the will; but, when this is done, it is with a reservation or a qualification. Thus we say that the judgment is good in the sense that it is true; but we do not say that true judgment makes a man morally good or virtuous. Wherefore the habit of good judgment is not simply good but good with a reservation and a qualification.

With all the more reason virtues cannot reside in the sensuous faculties, except in as far as they are controlled by the will. Thus the subject wherein virtue resides is either (1) the will, or (2) the speculative intellect in as far as it can be moved to truth by the free will, or (3) the practical intellect in as far as the acts to be placed are rightly commanded by the will, or (4) the sensuous appetites in as far as the irascible and concupiscible are ruled by the rational will. [4]

VI. In the Book of Genesis we read: "And God created man to His own image; to the image of God He created him." [5] This image and likeness consists especially in this: The soul

(4) Cf. Pesch, Prae.-Dog. De Virtutibus Infusis, vol. 8, Tract 1, n. 6.
(5) Gen. i, 27.

of man is, like God, a spirit endowed with intellect and will and destined to live on forever. Man, by his own exertion, should heighten this image of God, by using his intellect to learn more of God, and by training his will to do more perfectly God's will. Thus, in this better knowledge of God and in this better fulfillment of God's will, man would make himself more like unto God. This is what is called the natural state of man and his natural destiny. Wishing to make man even more like unto Himself—to make him "but a little lower than the angels . . . . to crown him with glory and honor". [6] God lifted man up to the supernatural state. In this state man reflects more resplendently God's perfections, and thus becomes more and more the likeness and image of God.

This lifting up God does by infusing into the soul of man a supernatural habit, by which man becomes "a new creature", [7] "a partaker of the divine nature," [8] so that, the darkness of sin having been expelled, man becomes a "light in the Lord", walking as "a child of light" "in all goodness and justice and truth", [9] and is fit "for the kingdom prepared from the foundation of the world". [10]

VII. (*a*) This habit is called sanctifying grace. Sanctifying grace does not add a new faculty to our soul, but transforms the faculties to know and to will that are in us. It is not a momentary, passing transformation, but a permanent inherent form. It is called a habit, but is not a mere disposition; it is a new form. Christ "emptied Himself, taking the form of the servant", [11] "that we may be found in His form". [12] Thus, as He was with us a man among men, we may become, in as far as our condition of creature allows, as God with God.

(*b*) Sanctifying grace is not a virtue. It holds the same place in the supernatural as nature does in the natural order. The supernatural does not supplant; it presupposes nature, yet it is not merely a perfecting but a lifting up of nature to a

(6) Psalm viii, 6. (7) Gal. vi, 15. (8) II. Peter i, 4.
(9) Eph. v, 8-9. (10) Matt. xxv, 34. (11) Phil. ii, 7.
(12) Preface of Mass of Christmas.

higher plane. It gives the intellect not merely a clearer but a higher and broader vision; it does not draw the will to the good merely more intensely, but draws it on to a higher and a greater good.

(*c*) The good in the natural and supernatural order, to which the will is drawn, is God, the supreme good; but the supernatural makes this good better known, and makes it more desirable in itself. To be with God is the desire of men. In the supernatural state this desire is to be with Him in a union more intimate than nature can give—namely, to know Him as we are known, to see Him face to face, and, thus seeing and knowing Him, to be with Him, not merely as a creature with the creator, or as a servant with the master, but as friend with friend and as children with the father.

Sanctifying grace thus holds the same place in the supernatural, which nature holds in the natural order. God gave man's nature certain faculties that it may function; with this new form God gives special gifts and aids that nature and the faculties of nature transformed can place the acts of this higher life. Among these are the supernatural virtues, which we can thus define as permanent dispositions to place human acts morally good, and fit to attain the supernatural end.

VIII. The moral virtues are put into action differently by the believer and by the unbeliever; by the just and the unjust. The first difference lies in the power which places the act. The one is left to his natural resources; while the other acts under the inspiration and help of the supernatural grace given him by God. Secondly, the one seeks the good which man perceives by the light of reason which points out to him that standard of morality, which reason learns by the study of the present order of things as they are in the present world. The good to be obtained is only that happiness which the world can give man, the satisfaction of knowing that he is right, a feeling that he is acting in a rational manner becoming his dignity as man. The other, by the glow of charity which is in

him and by the light of faith, sees a higher, a supernatural good, which draws him on to act. This higher and supernatural good is God Himself, known not only from the things which are, but known more fully and evidently from His positive revelation. The impelling force again is not merely the love of good, but the love of God from Whom all good things come and the Author Who has established the supernatural order by the absolute free choice of His positive will. This force endures morally in the habit of charity which is in the agent acting. There is then for the just a higher vision and higher impelling force and an object known as higher and more desirable. Faith gives the vision; charity, the impelling force. Thus the friend of God, when positing an act, refers the act together with himself to this supernatural end. Or at least the motivation of the act, in an implicit and confused manner, is faith, understanding hereby that, in the final analysis, the reason why the act is placed is because it is acceptable to God, the supernatural good, and that it is endowed with that justice which He demands in the supernatural order.

IX. But no moral virtue is supernatural, except in as far as it regards the right use of means to the supernatural end. Thus military prudence, in general, is not a supernatural virtue—the means are chosen for a merely natural purpose.[13]

From this it will be understood how the Fathers of the Church frequently stigmatized the virtues of the unbelievers as vices. All men are ordained by God to the supernatural state, and must therefore desire and attain God not merely as the natural but the supernatural good. The acts of the unbeliever's virtues fall short of this; and, hence, are in that sense vices.

However, nothing is wanting in them which is required by philosophical consideration for the essence of virtue. The formal supernatural object and the infused habit corresponding to this object alone are wanting.[14]

(13) Cf. Vermeersch, De Just., c. 1, n. 19.
(14) Pesch, Prael. Dog., Tract 1-13.

X. All the supernatural virtues are moral virtues, since they place good human acts, or, in other words, lead to the true final end of man's whole life. "An end," says Aristotle, "is something desirable of itself and not for something else." This, however, does not mean finality; thus, in a race, to reach the first mile post is an end, but the final end is the last post—the first end is in a certain sense a means to the final end. Now virtue may lead to God as its direct object; its end is then the final end, for that reason it is given a nobler name, being called a *theological virtue.* Or the first end of a virtue may be something desirable in itself, but yet dispositive as a means to the final end. Thus, the end of the virtue of justice is to give to each one his due as the standard of morality demands. This is desirable in itself, but is dispositive to a higher end, namely, this standard is fixed by God and to attain it is pleasing to Him, and, as such, is a means of coming to Him. For this reason these latter virtues are called simply the *moral virtues.*

The theological virtues tend to ordain human acts directly to the supernatural end of man, to God Himself; the moral virtues ordain such acts to the means which finally lead to God.[15]

In moral questions, matter and form are spoken of only by analogy. In this analogy the material object to which a virtue tends is the good to which its acts go out; the formal object is the moral good at which the act aims. Thus, the material object of justice is the rights of others; the formal object is the moral good that lies in this, to give each man his due. The formal object of the supernatural virtue of justice is this: It is good to give each one his due, because this is pleasing to God, and He will reward with eternal life.

XI. There are three theological virtues: Faith, Hope and Charity. God is considered as being Truth itself, and, as such, is the object of faith; or He is considered as *our* Supreme Good, and, as such, is the object of hope; or He is considered

(15) Summa, 1 2, q. 62, art. 2.

simply as *the* Supreme Good, and, as such, is the object of charity.

The moral virtues are classified under the heading, Cardinal Virtues, which are four: Prudence, Justice, Fortitude and Temperance.

Man must judge whether the object is morally good; this is done by prudence. Man must observe the mean in reaching out for the created goods; this is done by temperance. Then he must overcome those difficulties which sway him from going out after the real good, which is done by fortitude; and, lastly, in seeking his own he must not trespass on the rights of others; this is done by justice.[16] This division is scriptural: "If a man love justice (the sum total of morality), her labors have great virtues, for she teacheth temperance and prudence and justice and fortitude, which are such things as men can have nothing more profitable in life."[17]

St. Ambrose seems to have been the first to call these the cardinal virtues. "We know," he says, "that there are four cardinal virtues—temperance, justice, prudence, fortitude."[18]

XII. Cardinal is used in the sense (*a*) of denoting the four qualities which must be found in every virtue, prudent, just, firm and temperate; (*b*) to denote a special virtue in which one of these four attributes, common to all, shines forth in a special manner, namely, prudence, justice, fortitude and temperance, and thus these four virtues become heads, as it were, under which the others are ranged.

However, as this hinging springs from the matter around which these special virtues operate, it by no means follows that they are better or greater than the virtues ranged under them. Thus religion is put under justice; yet religion is greater in dignity than justice.[19]

Further, since this is a mere *logical arrangement*, because a virtue is placed under one of these four, it does not necessarily

(16) Summa, 1, 2, q. 60, art. 2; q. 61, art. 2.
(17) Wisdom viii, 7.
(18) (M. P. 15, 1653.)
(19) Summa, 1, 2, q. 61, art. 1, 3, 4.

imply that it is of the same faculty or that it is more intimately connected with this than with another virtue. Thus, for instance, humility is ranged under temperance which is of the concupiscible and sensuous appetite, whilst humility belongs to the will. [20]

XIII. These are called the cardinal among the moral virtues, but not in comparison with the theological, which are by far greater. The latter are not called cardinal, because in this term there is always an underlying meaning of turning which is excluded in the theological virtues. The appetite of man rests in the end of his being to which these tend; and, therefore, these are compared not to cardinal (the hinge) but to the foundation and root, as in the saying of St. Paul, "That Christ may dwell by faith in your hearts, that being rooted and founded in charity you may be able to comprehend. . . . to know also the charity of Christ . . . . that you may be filled unto all the fullness of God." [21]

For a similar reason wisdom is not enumerated among the cardinal virtues. The moral virtues turn upon human things; wisdom contemplates the divine. Contemplation cannot be compared to the turning on a hinge, for it is not like a gate by which one enters, but rather moral action is the gate by which one enters unto wisdom. Prudence among the moral virtues approaches closest to wisdom, yet with a difference: "Wisdom contemplates the divine; prudence concerns itself with the human things which lead to the wisdom of divine things. Prudence shows men how to come to wisdom; it is the intermediary, the minister of wisdom; it introduces and shows the way as porter to the king." [22]

XIV. Experience teaches us that virtues can be acquired by repeated acts. Revelation teaches us that God pours into the soul of the just certain virtues; hence the division into *acquired and infused virtues.* But, since the manner in which

(20) Vermeersch, De Just., cap. 1, 13.
(21) Eph. iii, 17, 18, 19.
(22) Summa, 1, 2, q. 6, a. 5, ad 1.

the infused virtues act, the means they use and the end to which they tend are over and beyond the natural, they are not a perfecting of natural powers, which are only dispositive to the supernatural, but can never attain it. On the other hand, since the infused virtues presuppose the power which they inform, they are not a new power superadded, but are habits disposing unto supernatural acts. From this it is evident that even the moral supernatural virtues cannot be acquired by repeated natural acts.

Scotus and his followers hold that the supernatural end, which the acquired virtues cannot have in their own species, comes to them from the inclination of charity, and that the infused virtue of faith gives the manner and the means of acting; and, consequently, that they need not necessarily be infused. [23] To this argument the Thomists answer: It could be thus, but yet, unless there be moral virtues infused, the supernatural order is not perfect in all its parts. The irascible and concupiscible appetites, in as far as they are subjects of moral virtues, would not be elevated to the supernatural.

Scripture and tradition seem to favor the opinion that the the moral virtues are infused with sanctifying grace. St. Paul tells Timothy: "God hath not given us the spirit of fear but of power (fortitude) and of love and of sobriety" (temperance). [24] Now, since the spirit of love is the infused virtue, it would seem justifiable to conclude the spirit of fortitude and temperance are likewise the infused virtues.

St. Augustine, speaking of the cardinal virtues, says: "These virtues are given to us in this valley of tears by the grace of God." In another passage he says: "Piety, chastity and sobriety and the whole army of virtues are in the just." "For, as the commander leads his army whither and where he chooses, thus the Lord Jesus Christ, beginning to inhabit the interior man, uses these virtues as His ministers." [25]

(23) Scotus, D. 3 d. 36, q. 1, n. 28 (Lect. de istis). (24) II. Tim. 1, 7.
(25) Ps. 83, 11, 37.

The opinion, commonly taught in the schools of the Church, holds that God infuses the moral virtues in the soul of the just together with sanctifying grace, and that an increase of sanctifying grace or merit increases them in intensity but not in promptness or facility to act.

The Roman catechism favors this opinion, when it says: "To this (sanctifying grace) is added the noblest train of all the virtues which are divinely infused into the soul with grace." [26]

XV. Promptness and facility come by repeated acts. These repeated acts do not add a new habit; they confirm the previous existing habit which becomes more ready and more prompt to act. This facility and promptness can remain, even though the supernatural habit is lost by mortal sin. Experience proves this: Man acquires a greater facility and promptness to place virtuous acts in proportion to the frequency in which they are placed. From the negative side, experience proves that, when the sinner is converted, he still finds great difficulty in overcoming the vicious habits of his former life, whilst his good habits, acquired previously, act promptly and easily.

XVI. All the infused virtues, except faith and hope, are lost by mortal sin, though the acquired natural facility remains. Faith and hope are lost only by sins directly against these virtues.

When sanctifying grace is regained by penance, the infused virtues are restored. Their intensity follows the intensity of the restored sanctifying grace. St. Thomas explains the reason for this: "Forms which can receive a plus or a minus are increased or decreased according to the diverse disposition of the subject . . . . wherefore in the measure in which the movement of the free will is increased in penance, grace is given to the penitent." [27]

(26) Cat. Rom. 2, 2, q. 50.
(27) Summa, 3, q. 89, ad 2.

XVII. The mean of virtue is either the mean of the thing or the mean of reason; the former is objective, and is the same for everybody and in all circumstances; the latter depends on the prudent use of reason, and differs for different persons and in different circumstances. Justice, for example, holds to the mean of the thing, for it demands from all and always: To give each one his due, neither more nor less. If one gives more, he does not act against but beyond justice. There is only one extreme, namely, to fall short of what is due. Fortitude, on the contrary, holds to the mean of reason between two extremes. He who exposes himself needlessly is foolhardy; he who flies from danger, when reason tells him to stand his ground, is timid; he who is neither timid nor foolhardy is valiant. What is foolhardy in one circumstance may be timidity in another. The mean here is between the extremes of the contrary vices. Temperance finds its mean between excessive use and excessive abstinence. Let us say, for example, in matters of food and drink. What is excessive for one need not be so for the other.

Justice alone seeks the mean of the thing; the other moral virtues, the mean of reason.

For the theological virtues there is no mean in regard to the object to which they tend. We cannot believe, trust, or love God too much. Wherefore the mean of faith, hope and charity can only be that the act is placed in suitable time and intensity with all the subjective conditions demanded by the true act.

It might seem that in faith and hope there is a mean as between overcredulity and incredulity, between presumption and despair; but a closer analysis will prove that this is not a mean of faith nor of hope but of the pious affection of credulity or of trust, which pious affections are not theological but moral virtues. The matter at issue is not whether we are to believe or hope for the things of God firmly or lightly as we do when men are in question, but whether we have reason to believe

that God has really spoken or promised these things; and this belongs to the pious affection of credulity, which, since it is a moral virtue, finds its mean in the mean of reason.

XVIII. Even in the natural order, to be a man of character and virtue demands not only one or the other good habit but an endeavor to practice all virtues. A truthful man, who is intemperate or unchaste, with all his fidelity to promises, is devoid of character. As Cicero says: "If you confess that one virtue is wanting you, it necessarily follows that you have none." There must, then, be a something which blends all of man's moral actions into a mutual relationship and harmony. In the moral life the will is dominated by its loves. St. Francis de Sales explains this, saying: "No doubt the will rules love, since it loves as it chooses; and among the many loves presented to her affections she chooses as she prefers. But, having chosen one, she lives in it and is ruled by it, and thus the will takes on the qualities of the love she has espoused."

This solves the paradox of the two testimonies of our conscience. The one tells us we are free and responsible; the other insists that our will is fixed by our loves. Our loves prompt our will either to elicit or to command or to reject certain acts not only transiently but permanently, not only for one or the other action but for the whole line of action. By its loves our will is qualified as noble or ignoble, pure or impure; and thus our moral life is our will. Therefore, even in the natural order, the virtues are connected and federated together, but not swallowed up so as to lose their identity, by love. This love which binds the virtues together is the love of God. Receding from this love, our habits become vices, are disjoined one from the other, and vitiate the harmony of the moral life. God is the supreme good, the author and exemplar of all good; and our will can never cease yearning until it has found this good. Its loves are good or bad, as they conform to God's will or recede from it. Wherefore St. Augustine says: "Virtue is nothing else than the supreme love of God."

XIX. In the natural order the moral virtues dispose our love to the real good. But a general inclination is not sufficient. Each human act must be brought before the bar of prudence. The verdict must be given not merely along the lines of the general principles of morality, but must take into consideration the many-sided and varying circumstances of life. The sentence must be passed on this point at issue: Is this particular act good in this particular circumstance. The judgment and command, let the act be placed, belongs to the practical reason. Prudence guides, checks and leads the sensuous and the rational appetite, lest the practical reason be swayed by them unto false good. Each moral virtue is thus brought before prudence for such guidance, restraint and leadership.

On the other hand, prudence relies for such guidance and restraint on the help of all the moral virtues. It is a question of the end of man's whole life; and, therefore, the help not only of one but of all the virtues is sought. Moreover, a right choice demands a right appetite. The moral virtues incline both the sensuous and the rational appetite to right. Thus prudence depends on the moral virtues as science depends on the knowledge of true principles. Prudence perfects the practical reason and is disposed unto so doing by the moral virtues. Prudence links the acquired virtues together; and they are linked up with prudence.

But love, after all, is the determining factor; wherefore says St. Augustine: "Prudence is love discerning aright that which helps from that which hinders us in tending to God." St. Thomas explains how St. Augustine can thus qualify prudence as love, saying: "Now, of those things which are directed to the end, there is counsel in the reason and choice in the appetite of which two counsel belongs more properly to prudence. . . . but choice can be ascribed to it indirectly in so far as prudence directs the choice by means of counsel. It (prudence) includes application to action, which application is an act of the will."

XX. This union of all virtues in love is absolutely true in the supernatural order wherein this union is effected by the supernatural virtue of love which is called charity, which has as its direct material object God Himself, and, as its formal object, the supreme goodness of God. Its aim in this life is to make us happy in the service of God as children serving their father and, through this service, to come to a complete and everlasting union with Him.

The Scholastics call charity the form of all the virtues—by form meaning the vital principle—as the soul is to the body, so charity is to the virtues. All the virtues are lifeless in the supernatural life, unless informed by charity, and cannot make a man virtuous. Charity makes him good in the full sense of the word, and subordinates all the other virtues to itself, and directs them to its end.

Lest some one reply that this is effected by sanctifying grace, it is well to remember that many theologians hold that charity is sanctifying grace, and that sanctifying grace is charity. But even in the other opinion which perhaps is the more probable, though charity is distinguished in reality from sanctifying grace, the virtue, rather than the grace, is the vital form of the virtues. There is a mutual interchange of good between man's merits and God's reward, which is friendship. The formal reason of this friendship is charity.

XXI. Sanctifying grace and charity form one inseparable bond which unites man to his final end. The moral virtues do not regard the final end directly; they regard the means to that end. Faith shows this end but does not obtain it, for even the wicked can have faith; hope gives the guarantee that we can obtain it; charity embraces it. As we do not tend towards an unknown end, thus we do not embrace an absent good, charity brings the supreme good to us: "If any one love me . . . . my Father will love him, and we will make our abode with him." [28]

(28) John xiv, 21, 23.

"Faith," the Apostle tells us, "worketh by charity." [29] If we accept "worketh" in the passive voice, as the Greek text demands, it means, charity is the vital form of faith in the same way as St. James says: "For even as the body without the spirit is dead, so also faith without works is dead." [30] If we take it in the active sense as in the Latin text, it means, that as the body worketh by the soul, so faith worketh by charity.

All other virtues are imperfect without charity. St. Paul, enumerating the virtues of faith, mercy and fortitude, adds, "but if I have not charity, it profiteth me nothing." [31] This charity makes man good and virtuous, and subordinates all the other virtues to its end. "But above all things have charity, which is the bond of perfection." [32] Thus charity is the form of virtue, for, just as in the body, the soul gives life, charity gives vitality to the virtues. It is the examplar of all virtues, not because they are begotten in its likeness, but because they work according to its manner; namely, each virtue tends to its own definite good, but charity tends to the Supreme Good, which is the Author of all good. The finite good is but a reflection of the Supreme Good." [33]

Charity with sanctifying grace is the source of all merit; and to the quantity of charity the quantity of merit will respond. For each virtue, in accord with the good which is proper to it, there will be an accidental reward. [34]

XXII. When we affirm that all virtues are connected into one chain, this does not necessarily mean that one must possess all or none. It merely means that, unless they are thus connected, there is an imperfection. Again, this does not demand that all be possessed in the same degree of perfection. In the natural order the union of the virtues means theoretically that, unless so linked up, they have not obtained their just develop-

(29) Gal. v, 6.
(30) James ii, 26.
(31) I. Cor. xiii, 1, 2, 3.
(32) Col. iii, 14.
(33) St. Thomas, Q. Disp. de Car., a. 3, ad 6.
(34) St. Thomas, De Ver., q. 26, a. 6, ad 8.

ment; practically it means that one or the other or even several virtues cannot qualify a man as good.

In the supernatural order the union of the virtues in charity means that, unless they are so united, the other virtues have lost the vital form needed for this higher life that they have lost their effectiveness. Again, not (*a*) as if charity must elicit or command each meritorious act, but that charity holds up the examplar, the mirror as it were, to the other virtues, showing the Supreme Good of which the particular good is only a reflection; (*b*) that a positive act of charity, elicited at certain times, must subordinate and direct all these particular goods to the Supreme Good loved for His own sake, which is the final end of all virtue and of all meritorious action.

XXIII. Many theories are advanced for the betterment of the individual. There are those who dream of a physical betterment by a selective interbreeding of the vigorous and healthy types to produce an ideal man of power, "whose body is the ready servant of his will and does with pleasure all the work that, as a mechanism, it is capable of."

Others, seeing a little higher, would add to this, "whose intellect is a clear, cold logic engine, ready to be turned to any kind of work."

The power of the body and the intellect thus fused would perhaps produce a mechanism ready to produce the work of the world. But to do this there must be control. The bolt of lightning, shooting from the clouds, wreaks havoc; the mad rush of the cyclone leaves ruin to mark its trail; steam is impotent, unless it is compressed in cylinders. Power of body and mind can make a demagogue or a statesman, a tyrant or a ruler, a hero or a scourge for humanity, a Nero or a St. Paul, an Attilla or a Charlemagne. Something more then is needed. Culture of the intellect makes a learned man; culture of the will makes a good man. This culture is given the will by the moral virtues. A man may be rich, honored and mighty; he may be a renowned genius, an incomparable artist, an unconquerable

general or a much heralded statesman, but this will not make him who possesses it a good man, nor will it make his work good for humanity.

XXIV. Aristotle says: "Virtue alone makes him who possesses it good." Plutarch in his epigrams narrates this anecdote. The question was put to Charislaus: "Which nation is the best?" He readily answered: "That one in which the citizens vie with one another for possession of virtue." Holy Writ summarizes this truth in the words of the Psalmist: "Decline from evil and do good and dwell for ever and ever." It is not sufficient to avoid evil, doing nothing that would be against the law of God. By doing good we heighten the image and likeness of God which is in us by nature and which God's grace brings almost to a participation of His very nature.

Our earthly career is only then worth while if we endeavor to perfect this participation day by day. "He that is just let him be justified still; and he that is holy let him be sanctified still." [35]

In the first series of instructions given on the Mount, our Lord explains the perfection of the law. He stresses the sanctity of this law and concludes this first part of the sermon with the words, "Be you therefore perfect as also your heavenly Father is perfect." [36] Of course, we can never arrive at this absolute perfection, but the Lord sets the ideal high, so that we may never cease striving to make ourselves more and more like unto Him. St. Paul admits this impossibility, explaining to the Church at Philippi: "Not as though I had already attained or were perfect," yet he adds: "But the one thing I do, forgetting the things that are behind and stretching forth myself to those that are before, I press towards the mark, to the prize of the supernal vocation of God in Christ Jesus." [37]

Charity being the essence of this perfection, substantially it is the same for all; yet there are varying degrees, because not

(35) Apoc. xxii, 11.
(36) Matt. v, 48.
(37) Phil. iii, 12, 13, 14.

each state in life gives the same means, nor can the virtues be practiced in the same manner by all, for "the Spirit breatheth where he will". [38] In every state of life the virtues must be practiced according to the manner and the means given to each; and thus we should strive to obtain such as are commensurate to the state in life assigned to us.

XXV. The virtues are not only helps to perfection; but, since they heighten the image and likeness of God in us, are, in a certain sense, this perfection itself. Thus, for instance, wisdom, by which we contemplate the divine things in the one vision, namely, God, the first and universal principle and the final end of all created beings, seeing that "every best gift and every perfect gift is from above coming from the Father of lights", impresses on our knowledge a unity similar to the unity in God, Who, contemplating His own essence, sees all things. The virtue of patience which, in weal or in woe, enables us to possess quiet of soul in the full turbulence of life, reflects the unchangeableness of God, "with Whom there is no change nor shadow of alteration." The virtue of temperance, recalling the rebellious manifestations of the passions to the soul centre and thus begetting in man a feeling of concentration making him act as a concentrating and concentrated being, reflects the absolute oneness of God's acts. Thus similarly for all the virtues.

(38) John iii, 8.

CHAPTER THREE

The Obligation of Human Law

Article I

Laws of the Civil Government

I. In the chapter on Moral Obligation it is established that man participates of the Divine Providence not only in the sense of subjection but likewise because he can ordain for himself and for his subjects a rule of individual or of social life. From the foregoing, too, it is evident that to evoke the dictate "I must", every law must in some manner participate of the eternal law of God. "The freedom of those," says Leo XIII, "who are in charge is not that they may command rashly and according to their whims. The force of human laws lies in this that they are understood to flow from the eternal law and that they sanction nothing which is not contained in this law as in the source of all right." [1] "For God in the things which are and which are seen has fashioned certain secondary causes in which, in a certain manner, the divine nature and action of God is discernable and which make for that end to which the whole universe tends; thus, too, in civil society He wills that there be a ruling authority and that those who are vested with this authority reflect the image of the divine power over mankind and of His Divine Providence." [2]

St. Thomas defines law as "an ordering of reason for the good of the community, promulgated by one in whom the care of the community is vested." [3] "Political subjection differs from servile: the servile subject is and acts for the good of another, the political subject is and acts for himself. The

(1) Encyclical, Libertas, Letters of Leo XIII, Benziger, p. 142.
(2) Encyclical, Immortale Dei, lib. cit., p. 109.
(3) I-II, q. 90, a. 4.

servant is ruled not for his own but for the benefit of the master; the citizen is ruled for his own good, not for the benefit of the ruler. The political ruler, governing the people, seeks not his own good but the good of the people; the tyrant seeks his own not the people's good, as Aristotle teaches" (Ethics 1, 8, c. 10). Thus if there is question of servant in political rule, he who presides rather than he who is subject should be called the servant, as St. Augustine teaches [4] (l. 9, de civit., c. 14).

II. "Forms of government and titles to exercise it and the power itself, as existing in its determinate possessors," says Cardinal Billot, "are not immediately from God, but only through the medium of human consent, that is, the consent of the community." [5] He then explains: "Not in the sense that the right of sovereignty in itself comes from the people after the manner of an instrumental power which flows from a supreme commissioner to one commissioned. . . . Since authority in itself is constituted not by human but by divine natural right, there is nothing left for the human will or action but the determination and designation of the ruler. . . . Through this designation the people become the proximate cause, not indeed of the power as such, but of the joining of power to such a person, according to such or such a measure and such or such conditions." Our authority then goes on to explain the difficulty; but how can the community give what it has not? "At the moment," he says, "before the institution of a government, there exists a society constituted not indeed ultimately and in perfect actuality, yet in potentiality." "Whenever a determinate multitude of men assembled to help one another for a political purpose exists, there is at hand a social power, not indeed for governing that body, but for constituting sovereignty from which the governing power is derived. This power, in

(4) Bellarmine, de laicis., c. 7. Cf. Encyclical, Immortale Dei, "They, therefore, who should rule with even-handed justice, not as masters, but rather as fathers, for the rule of God over man is most just, and is tempered always with a father's kindness. Government should, moreover, be administered for the well-being of the citizens because they who govern others possess authority solely for the welfare of the State." Lib. cit., p. 109 at bottom.

(5) Billot, de Ecclesia Christi, c. III, q. XXII, 4th edit., p. 497.

as far as it is from God, exists immediately in a concrete subject or possessor, namely, in the community itself, by which it is afterwards retained or is transferred to one monarch or to a select group." [6] From this it does not follow "that one government can be deposed and another instantly substituted at the whim of the multitude. A will which does not follow the order of reason neither has nor can have validity." [7] "The right to sovereignty is unlike the right of property in as much as by nature sovereignty is ordained not for the benefit of him who holds it, but for the benefit of society. Hence, if at any time the public good requires a new form of government and a new designation of rulers, no preexisting right of any person or any family can validly prohibit this change. The right to create the new legitimate government inheres in the community habitually or potentially. However it ought not to be used rashly or whimsically but when its use is demanded by the common good and social tranquillity." [8]

III. The theory of law held by practically all outside of the Catholic Church is: all law arises from the will of men and whatsoever this will of man expresses, is law. For some this expression must come through the ballot; for others it, too, may come through violence. This theory is the direct offspring of the dictum of Montesquieu and Bentham: "The State is the source of all law."

In the Catholic view law is the measure or rule of the human will ordering it to place or not to place a certain act. "The measure," says St. Thomas, "of the human will is twofold, one proximate and homogeneous to the will itself, namely human reason; the other is the first rule namely, the eternal law which is, as it were, the reason of God." [9]

The axiom, "Man is a law unto himself," is true therefore in the sense that the immediate guide, the one homogeneous to his will, is his own reason. But the axiom is false in the sense

(6) Ibid., p. 498.
(7) Ibid., p. 500.
(8) Ibid., p. 502 and 503.
(9) I, II, q. 71, a. 6.

that man is not obliged to bring his own reason into conformity with the "reason of God". This eternal law, "the reason of God," is not an arbitrary fiat of God; but is the effluence of his will governed by his wisdom and benevolence.

A thing is right therefore not merely because God has so willed but because the very order of things which God created demands that it be thus. Man is a law unto himself, because he must be guided by his own reason educated to see the "reason of God" in his own very nature and in the very nature of things round about him.

The most precious natural gift bestowed upon man by the Creator, is the freedom of his will, which enables him to choose his action; but by necessity this freedom of the will is curtailed; first, by the rule homogeneous to man's will, namely, his reason, which tells him that he has various duties towards himself; then it is further curtailed because he is a creature of God, and as such he has duties towards God, his Creator; thirdly, it is curtailed by the fact that man was not created merely as an individual, but as a social being destined to live with others, and as such all his gifts, powers, possessions besides being his individual personal prerogatives are in a manner, too, the prerogatives of the society in which he lives, and since the well-being of the society in which he lives reacts upon his own individual well-being what he loses in favor of this society, he regains by the favor of this society. Therefore the curtailment of human freedom by law can only be justified in so far as this curtailment is necessary or useful, in the ultimate analysis, for man's individual well-being. Man can never lose the personal dignity of being created according to the image and likeness of God. Any law which would lessen or dim this image and likeness is by that very fact not a law but a tyranny. There are therefore certain rights and prerogatives which are immutable and inalienable. Such rights are not subject to the will of the majority, or of the ballot, or of legislation.

IV. Some in order to justify the theory, the will of the majority is the source of all rights, appeal to Public Conscience. *Vox populi*, they say, *vox Dei*, "The voice of the people is the voice of God," is true, if the opinion is practically unanimous, is constant through many years, and is based on thoughtful experience and sound judgment; for then, in its ultimate analysis, this voice of the people arises from the very nature of things and thus is the voice of God who created this order of things. But the axiom is made to serve a totally different purpose. Under the pretense of a free state the right of franchise to vote is being extended to all and the vote of the majority is proclaimed to be the Public Conscience. In theory the majority rules; but in practice the majority is artificially produced by relatively few, who style themselves leaders. This majority is nowadays, not made so much by the cruder methods of buying votes, of willful miscount, and such other manipulations, as by the study of mob psychology and by exciting a mob spirit by which the leaders make a majority. This mob has well been defined: "A crowd of people showing a unanimity due to mental contagion." [10]

The mob spirit can be defined: a mental contagion arising from suggestion and imitation which takes hold of the many who in this frenzy become an unreasoning machine manipulated by one or a few leaders. The suggestion is spread by some catch phrase or sensational proclamation. The telegraph and telephone, steam and electricity, the press, the theatre and moving picture spread the contagion like wild fire. The unthinking many thrown off their balance, take up the cry. No time is allowed to regain the equilibrium of sound judgment.

Imitation, too, is a powerful agent for spreading the epidemic. The most damning phrase today is, "Behind the times," "A Back Number." Our system of education, based on much reading and much seeing, without definite aim or perspective, has caused the power to discriminate between

(10) Foundations of Sociology, Ross, p. 103.

ideas in respect to their value to lag far behind the capacity to receive ideas and thus the individual is left with nothing to do but to follow the drift. Our knowledge of facts has increased enormously, but our judgment of facts has decreased in the same proportion. The multitude can tell you trippingly what so and so said, but few can tell why he said it. The *vox populi* today is but an expression engendered by such suggestion and imitation. The "political landslide", the "tidal wave", is the expression of this hysteria. How else can the sudden reversal of political thought and action which seizes on the many be explained?

Some of those who now so violently defend the omnipotence of the majority may some day be disillusioned, when a temporary majority decrees the abolition of private property, and the sequestration of private fortunes. It is all very well to talk about the good sense of the American people: but in our generation we have seen reversals of opinions on most vital issues, such as a preceding generation would have scouted and we ourselves have declared impossible of realization.

The builders of the American Constitution forsaw this danger and to forestall it instituted the Supreme Court with the power not only to interpret the words of the constitution or of statute law, but likewise with power to decide whether or not a legislative enactment runs counter to a man's inalienable and immutable rights, which spring from the very nature of things and find their ultimate sanction in the will of God. [11]

V. The ideal government, according to St. Thomas, is one wherein are combined the various forms of human government: "The kingdom, is so far as one is the head of all, the aristocracy in so far as many participate in this rule, the democracy, in so far as all the people are eligible to become rulers and the rulers are elected by all the people." [12]

He compares the co-ordination of rule in such a state to the human body wherein all "is dependent on one moving dominant

(11) Cf. Life of John Marshall, by Albert Beveridge. (12) I-II, q. 105, a. 1.

principle, yet so that every member retains its own distinct nature and peculiar function and is of benefit to every other member and of the whole body".[13] Just as some Gothic cathedral of the Middle Age, wherein each part reflects in detail the idea and plan of the whole structure.

Such a government must reflect the whole scheme and general system of creation, wherein each separate organism receives from the central motor, God, in accordance with its peculiar nature and mode of existence, its vital impulse and the laws of activity, disposed to the final end and purpose of all things—God. Thus, though there is an evolution from the particular to the general, from the individuals to the family, tribe, city, state, empire, this evolution is centrifugal—it evolves out of the centre out of which comes the principle of authority, tending upwards to God, its author, and downwards to the man, its subject.[14]

For as the Psalmist says: "Unless the Lord build the house, they labor in vain that build it. Unless the Lord keep the city, He watches in vain that keeps it."[15] "There is no power but from God; and they that are, are ordained of God."[16]

The authority in human society cannot recede from God. The personality and dignity of man cannot be swallowed up by the society, and the individual cannot stand separate and aloof from the society. There must be laws; but they may not contravene the law of God; they may not debase the liberty of the individual, they may not rend asunder the bonds, which hold the individuals together in the society. There must be inalienable and immutable rights not subject to human legislation, not subject to the will of the majority.

VI. It is the function of the state to regulate by wise laws those elements which enter into the civil and political life of the nation, those things, namely, which make for the temporal

(13) De regim. princ., IV, 23.
(14) Meyer, S.J., Sociale Frage; Stimmen aus Maria Laach, Ergaenzungs Hefte, p. 62 sqq.
(15) Psalm 126, 1, 2.
(16) Romans 13, 1.

happiness of the people, which happiness presupposes and is based on the higher life of Christian perfection.

Its scope thus embraces whatsoever makes for the preservation, perfection and purpose of human government, namely, for the good of all its subjects. These goods are various: they are intellectual, wherefore it is the duty of the state to provide means of education for its people and even to compel all to receive at least a minimum of such education in letters, science, and the arts necessary not only for the individual but for the common weal; the goods of the will, wherefore it is the duty of the state to promote the social and moral virtues, to fight vice and to punish crimes; the goods of the body, wherefore it is the duty of the state to watch over the health of its subjects; the goods of fortune, wherefore it is the duty of the state to govern the production, distribution and consumption of wealth.

In fulfillment of its mission the state must uphold and enforce the natural law and punish those who transgress it. However it is not of the province of the state to enforce all the precepts of the natural law, some of these must be left to private conscience. The state has not the purpose to sanctify the individual; but to regulate the morals of the individual in so far as they affect directly the common weal and fall under the public notice of the public authority. In this connection, St. Thomas remarks: "Human government is derived from the divine government and should be modelled after it. God, though He is omnipotent and is the supreme good, allows some evils to be in the universe, though He could stop them; He tolerates these, lest impeding them other and greater good be thereby impeded, or greater evils follow. Thus too, the civil government must tolerate certain evils lest greater good be impeded or greater evils follow.[17] God left the sanctification of the individual to His Church and the punishment of private sins to conscience and the hereafter.

(17) I-II, q. 101, a. 3, ad 2.

The state has the right to determine by positive law those points which are vague and undetermined in the natural law. Such as, for instance, how last will and testaments are to be drawn, how children may succeed to the fortune of their parents and other such rights, which though established under a general form by the natural law, yet are not determined in detail. The general determination of natural law must however be the basis for the specific determination of the positive law of the state. The state has the right to supply where the natural law is silent; but the state has no right to forbid what the natural law allows or to allow what the natural law forbids. Nor has it the right to violate equity by serving the private advantage of some rather than the common good of all nor by unequal distribution unequally distributing the burdens nor by commanding what for the many is morally impossible. [18]

VII. When Christ, the Son of God, instituted the Church, He gave into her keeping the spiritual welfare of mankind. In order that she might be able to carry on her mission of the salvation of souls, He gave her full power to make laws necessary for the general spiritual welfare of the people. "To me," says the Savior, "is given all power in heaven and on earth. Go ye therefore and teach ye all nations—teaching them to observe all things whatsoever I have commanded you." [19]

By these words Jesus transferred the plentitude of power, which was His to His Church. That the Apostles were conscious of this power is evidenced by the words of St. Paul to the Corinthians: "Having in readiness to revenge all disobedience." [20]

And again from the warning he sends them: "I write these things being absent, that being present, I may not deal more severely, according to the power which the Lord hath given me unto edification, and not unto destruction." [21]

This power over the souls of men Christ gave exclusively

(18) Bouquillon, Theol. Mor. Fund., p. 448.
(19) Matth. 28, 18. (20) 2 Cor. 10, 6. (21) 2 Cor. 12, 10.

to His Church; to use it independently from all other society. "The Church," says Leo XIII, "is a society chartered as of divine right, perfect in its nature and its title, to possess in itself and by itself through the will and loving kindness of its founder all needful provision for its maintenance and its action." [22]

Whatever, therefore, has reference to divine worship and the salvation of men's souls, such as the offering of the sacrifice, the administration of the sacraments, etc., comes under the exclusive jurisdiction of the Church. In the exercise of its ministry the Church stands in need of material goods. She has a right, therefore, that the state recognize and protect her title to such material goods as she has acquired for the purpose of carrying on her mission.

Though the state has received no direct commission from God to watch over the spiritual interests of man and its jurisdiction is entirely confined to the temporal well-being of the community, it is none the less a creature of God and as such owes him worship. The state must, therefore, recognize in its actions the existence of a Supreme Being.

Moreover the moral status of the individuals in the community makes for the temporal well-being of the community, it is thus to the interest of the state to protect, to help and to second the efforts of religion.

The observance of law depends to a great extent on God's sanction of the laws of the state. The police protection of the state, the threat of penitentiary sentence is hardly sufficient to maintain law and order in the state. Something more is needed and this something more is the conviction among men, that a transgression of a just law of the state is a sin, just as is the transgression of the law of God and will be punished by Him. In the words of the Apostle: "There is no power but from God; and those that are, are ordained of God. He that resisteth the power, resisteth the ordinance of God. Be subject of necessity not only for wrath but also for conscience sake." [23]

(22) Encyclical, Immortale Dei, l. c. (23) Romans 13, 2-5.

It is thus to the interest of the state to help the Church spread such and other like religious motives for the observance of law and order.

Article II

The Binding Force of Civil Law

"Give therefore to Caesar," says the Lord, "the things that are Caesar's and to God the things that are God's." [1] In this passage our Lord undoubtedly teaches obedience to the civil power and to a certain extent He puts this obligation on the same plane as subjection to God's law.

St. Paul after having posited the premises: "There is no power but from God and those that are, are ordained of God;" "He that resisteth the power resisteth the ordinance of God," concludes, "They that resist, purchase to themselves damnation." "Wherefore be subject of necessity, not only for wrath, but also for conscience sake." [2]

St. Peter just as emphatically tells the faithful: "Be subject therefore to every human creature for God's sake; whether it be to the king as excelling; or to the governors as sent by him for the punishment of evil doers and for the praise of the good." [3] Wherefore there can be no doubt but that human legislators can bind in conscience even under pain of eternal reprobation. Every law must have a sanction, namely, an efficacious means to induce obedience. The underlying notion of a moral law, as a moral force which compels the otherwise free will to yield to it, makes this plain. In the state of fallen nature the very good or evil of the act—satisfaction or remorse—is not sufficient to bind all men or even to bind the average man in all circumstances. Some further reward or punishment must be attached to the observance or non-

(1) Matt., 22, 21.
(2) Romans 1, 2, 3.
(3) I. Peter ii, 13, 14.

observance of a law. There must be some way to force rebellious subjects to obedience, if they will not do so because of the good that comes from observance, they must be forced by the threat of the evil consequent upon transgression. The very nature of this binding force of law, since it is not a physical outward but a moral inward tie, proves that it must react to conscience, i.e., place an obligation in conscience.[4] This obligation in conscience may be direct or indirect, namely he who violates the law will thereby incur guilt in conscience or hypothetically, as in merely penal laws, if convicted he will in conscience be obliged to pay the just penalty.

Some maintain that this obligation in merely penal laws is placed disjunctively, namely, either you will do this or you will undergo this punishment. In this opinion the choice would be left the subject either to do as the law commands or to pay the penalty.[5] This is hardly tenable, for the legislator is not indifferent as to whether his subjects want to obey or prefer to suffer. He really wants obedience and to force this obedience he hypothetically states: "If you will not obey you will have to suffer."

If it were disjunctive the obligation as such would arise only after sentence is passed. In reality though the obligation is there from the beginning.

Wherefore Suarez justly says: "Obligations under threat of punishment, though they do not oblige in conscience to place an act, do oblige under pain of punishment." "Mere penal laws contain only one precept which is hypothetical—you will be amenable to this punishment if you do not do this."[6] After the transgressor has been found guilty he is in conscience bound to pay the fine assessed. If he defrauds the government of the fine, he is bound to make restitution. A penalty such as

(4) Sum. I, II, q. 96, a. 4. Suarez, de legibus d. III, 21 et 22.

(5) Antoine. Theol. Mor. Tr. de legibus, c. 8, q. 1, n. 2. Tanqueray, Theol. Mor. de legibus, n. 347. D'Annibale, Summula 1, n. 207. Bouquillon, Theol. Mor., n. 131.

(6) De leg. l. 5, c. 4, n. 1. Vermeersch, Theol. Mor., vol. I, n. 169. Jos. Biederlak, S.J., Zeitschrift, Innsbruck, vol. 23, pp. 159 et 160.

imprisonment may be avoided by legitimate means. Imprisonment is not a debt due the government in conscience.

Vermeersch maintains: The effect to produce obligation need not necessarily be inherent in a law. He argues thus: The legislator who wills that his practical dictate of something to be done by his subjects become a practical dictate for all his subjects, in reality ordains them for the common good. This his will or intention is a legislative will. Now this his will may be really efficacious, i.e., it does generally dispose the subjects for the common good. This effect can at times be obtained without urging an obligation, namely, the good will of the subjects is sufficient to effect compliance. If then an external punishment be a sufficient and effective means the legislator would attain his purpose by obliging them merely under threat of such external punishment. Such punishment would be just because it would be inflicted because of a transgression of an order legitimately established, though this order would not be essential nor enjoined under pain of sin. There would be a crime in the external forum but none in the forum of conscience.[7] The argument if examined closely does not fully prove. Psychologically, why is it that subjects obey? Because they feel that their wills are bound by the will of the legislator. This force again is the interior moral force which we call conscience.

Those who would otherwise be rebellious are forced to obey by the consideration, I will be forced to undergo punishment. This is not a yielding merely to outward force. Though perhaps not reasoned out in detail by the individual subject, basically the force lies in this: my will is tied down, for when sentence is passed I will be bound to pay the penalty. This moral force is conscience.

St. Thomas answers the objection, if there is no fault there can be no punishment, by the distinction "if punishment is considered as punishment it can be inflicted only

(7) Vermeersch, lib. cit., n. 169.

because of sin, but if it be looked upon as promotive of the common weal it can be inflicted where there has been no fault but where there is a cause." This gave rise later on to the rule of law, "where there is no fault there may be no punishment, unless there be a cause." [8] This in turn gave rise to the distinction between a moral fault and a juridical fault, or as some prefer to qualify the latter, social fault. Thus for the common good those stricken with communicable disease may be isolated; negligence though there was no fault in conscience may be punished, certain acts may be declared null and void. In penal laws there was no fault in conscience, but for the sake of obtaining the common good, those found guilty must pay the penalty fixed by law. Bouquillon places a limitation by demanding that the punishment inflicted must be a real compensation for the fault. Thus he says breaking the fast could be punished by assessing an alms; tax dodging, by assessing fines; but not wearing the ecclesiastical dress cannot be compensated for by a fine. In the first cases there is a real compensation, the punishment being in the same order as the purpose the legislator has in view, to wit, mortification or revenue for the state; in the latter case there is no such interchangeability. [9] This theory is more tenable in the view mere penal laws place a disjunctive obligation than in the view the obligation is hypothetical.

To sum up therefore it may safely be maintained that the laws of civil government may bind either in conscience directly and thus be strictly moral laws placing a moral obligation, or they may be mere penal laws binding in conscience indirectly to undergo punishment if found guilty. This opinion is to say the least both intrinsically and extrinsically probable.

On what will it depend whether a certain law is binding directly in conscience or is a mere penal law?

(8) II-II, q. 108, a. 4. Regula juris 25 in sexto "sine culpa, nisi subsit causa, non est aliquis puniendus."

(9) Bouquillon, lib. cit., n. 131.

The only tenable answer which can be given is: the extent of the binding force depends on the reasonable will of the legislator. [10]

To maintain that all laws of modern legislators are merely penal because the trend seems to be to eliminate God and conscience entirely from civil legislation, is an extreme view. [11] No formal belief in a Deity or in the hereafter is needed to put an obligation in conscience; it suffices for the legislator to will to govern in the strict sense of the word with all the power at his command.

Furthermore, the natural law demands that some governmental laws bind in conscience. Legislation by civil government is needed to apply the natural law to the ever varying circumstances, such as the political or economic conditions of the country may bring about; it is likewise needed to further determine in detail the outlines of natural or divine positive law. This determination to be effective must put an obligation in conscience. [12]

The observance of all laws in all circumstances by all without a direct sanction in conscience is a moral impossibility. Legislators who would will that all the laws of the country be merely penal would act against the dictate of nature, *per consequens* their will would be unreasonable and the natural law would supply the defect.

Because many legislators affect not to believe in God and wish to eliminate all idea of a Deity from human government, even if the statement in its sweeping generalization were true, would not of itself make all their laws merely penal.

To break down the sweeping statement, all modern legislation is atheistic, the fact is cited that in some countries, though

(10) Lex non obligat ultra mentem legislatoris; ergo si intendat sub sola poena obligare hoc, e.g., expresse declarando clarum est quod ex se ad culpam non obligent. . . nam actus agentium non operatur ultra eorum intentionem. Reiffenstuel, Jus Canonicum Universum Tit de constitutionibus, n. 199.

(11) Konings, Theologia Moralis de Legibus, n. 178, 179.

(12) Kenrick, Theologia Moralis, p. 176. Genicot-Salsman, Theo. Mor., vol. 1, 141, 4. Vermeersch, Theo. Mor., vol. I, 25, 32. Bouquillon, Theo. Mor. Fund., n. 210. A. Jansen, Jus Pontificium, Annus V, p. 24. John A. Ryan, State and Church, p. 252.

avowed atheists are in control, they none the less refuse to do away with the oath in civil matters. This argument cannot be used in our country where the option is given in such circumstances to either affirm or swear to the truth. In the United States this option would rather indicate that in formulating legislation our legislative bodies prescind from the question of conscience.

A stronger argument is the fact that very many hold all morality to be a mere convention among men and the police power of the state to be the real effective sanction of human law. In spite of this undeniable fact some human laws must bind in conscience. [13]

On the other hand the modern fury to make laws and thus to cure all the ills which human nature is heir to, oversteps all bounds. We are thus put to the alternative, either some civil laws are merely penal or there are many which are no laws at all. [14] For surely these lawgivers cannot put an unsupportable yoke upon us and rush us all pell mell to hell. As Suarez contends, "Lest the salvation of souls be jeopardized, it is frequently more expedient to make laws bind merely as penal laws." Some coercion is (necessary) useful but that the coercion be not too great is likewise useful to the soul and befits rather a benign watchfulness than rigor. [15] If some external punishment threatened will bring about observance of a particular law, no further sanction is needed and no further obligation should be put. Such punishment is just because it is decreed for a violation of the constituted order although this order is not essential nor commanded under pain of sin. There is a juridical fault and that suffices for inflicting punishment.

A peculiar sophistry is used to prove that an atheistic government might be presumed to will to bind in conscience more frequently than a Christian. The Christian legislator, they say, is often deterred by the thought not to jeopardize

(13) Cf. above.
(14) In New York City there are some 16,000 laws.
(15) De leg., l. 5, c. 4, n. 1.

the eternal salvation of his subject, whilst the atheist would rejoice because on account of the conscientiousness of his subjects such a powerful weapon for law enforcement is put into his hands. But how will you make such, we might say, diabolical intention rhyme with the very basic principle of all law, to wit, the will of the legislator must be reasonable? Can any sane man imagine that God has given such power to human beings? [16]

Some writers and preachers seem to be much troubled with the thought, to tell people openly that certain laws do not oblige in conscience makes for a disregard of all laws and a contempt for civil authority. These good people in their eager patriotism lose sight of the fact that making false consciences paves the way to hell. If it is not well to break down respect for civil laws, it certainly is not well either to exaggerate and make false consciences. To harass conscience is a more deadly sin than to diminish chauvinism. Instead of harping continually on the theme: disrespect for one law engenders disrespect for all laws, would it not be well to change the tune and sing to the world, fool laws enacted by fanatics and enforced by violation of personal liberty make for a complete breakdown of civil government? History teaches that invasion of personal liberties rather than disrespect for law has caused the overthrow of governments.

To interpret the reasonable will of the legislator the same criteria should be applied as when there is a question whether a law binds under pain of mortal or venial sin. Such criteria are:

1. The wording of the law.

2. The purpose the legislator may have in view. This purpose does not of itself fall under the law but yet is a good indication whether the common weal demands an obligation in conscience. This obtains more frequently with regard to laws which determine the rights of people living in the community than with regard to laws which directly command or

(16) A. Jansen, Jus Pontificium Romae, Annus V, p. 27.

forbid an action. Laws which aim to protect the individual from himself, namely, lest he abuse indifferent things to the detriment of his own health or wealth, are to be interpreted as merely penal more readily than those which protect more directly the health and the wealth of the community as such. Of course all civil law must aim to protect or procure the common welfare, but this is more direct and apparent in some laws than in others.

3. Acceptance of law by the subjects is not necessary to fix the binding force, nor does non-observance or repudiation of a law by the people necessarily nullify it; but custom is the best interpreter of laws.[17] Here it might be urged: in the United States a goodly number of otherwise moral people openly scoff at the idea of civil laws binding in conscience;[18] another goodly number take an obligation in conscience to mean nothing more than one is in honor bound to fulfill his duties; this in honor bound can scarcely be stretched to mean an obligation in conscience; others again take conscience in a very wide sense to mean only a something a good citizen ought to do (the law of the State or the will of the majority is their fetish).[18] The comparatively few who recognize a real obligation in conscience would be doubly bound, namely, unto guilt and unto wrath. Under such conditions would it not perhaps be safe to hold, that unless it is manifest that the common weal demands an obligation in conscience for certain laws, civil laws are mostly purely penal? How in different countries different interpretation may be put on the will of the legislator can be seen from the example that in Belgium, for instance, traffic laws for automobiles are looked upon as merely penal, whilst in United States such laws, at least in larger cities, are absolutely necessary to protect human life and are taken therefore more seriously.

(17) John A. Ryan, State and Church, p. 256 sqq.

(18) They reduce the moral obligation of legal statutes to the evil chance of incurring the penalty for violation.

4. The severity of the external punishment — heavy fines — and more especially extraordinary means taken to ferret out arrest and convict offenders are good criteria of purely penal laws. This rule cannot be applied promiscuously, because this severity and vigilance can be an indication of the determined will of the legislator to enforce the law by every power at his command. But it may, too, prove the contrary, namely, that very little is left to conscience.

5. Laws declaring certain formalities necessary for validity do not as a rule forbid the placing of such invalid acts. Whether a person can in conscience profit by such informal acts depends whether the nullifying clause is attached merely as a bar to judicial procedure or not.

6. Today probably only such civil laws bind in conscience for which the common good demands such an obligation. This obtains more frequently with regard to laws which determine the rights of persons in the community than with regard to laws which directly command or forbid an action. [19]

7. Accidental circumstances may make that laws otherwise merely penal bind in conscience, e.g., time of war, famine, general poverty, etc. Formal contempt of civil authority, not of some particular law, is a grievous sin.

After the French Revolution the tendency of laws was to protect the individual rather than society. The extremeness of this tendency gave rise to socialism. In the last quarter century a marked tendency has set in to subordinate almost entirely individual to social rights. How far the state can go in limiting individual rights is often difficult to state in the concrete. To hold the balance equal between the individual and the community, protecting the one and the other, is a difficult task. The destruction of private initiative, thrift, personal liberty, is as fatal to the community as an over exaggerated individualism is destructive of human society. Private good must at times cede to the public good and justice

(19) Vermeersch, Theol. Mor., vol. I, n. 252.

must be tempered by charity. Life would be intolerable if each individual would stretch his rights to the utmost. The state regulating the minutiae of individual life would thwart the very purpose of the common weal.

Article III

The Taxing Power of the Government

I. *Praenotanda*: The question here does not touch on rents to be paid for special privileges, franchises, or direct utilities furnished, such as water, light, heat, gathering of ashes, garbage, mail service, etc. These are questions of commutative justice—a direct service is rendered for the benefit of the individual—there is therefore a direct *quid pro quo*.

The question is concerning contributions made for the common weal in which of course the individual participates, but only indirectly. Distributive justice demands that these burdens be distributed equally on the subjects according to their means and according to the need of the common weal. The duties imposed on the subjects corresponding to this right are in legal justice.

This duty is personal, hence it falls directly on the person, but since in measuring the amount to be contributed the means are to be estimated, indirectly it falls on the goods the person possesses. It is a personal duty. As man benefits by the society in which he lives, and as man being of a social nature normally must live in some kind of community, it follows that he must contribute in some manner to the support of this community.

Indirectly this can be proven by the dilemma, the duty is either personal or real. But it is not real. For if it be real, then it must be admitted that the community has a direct right to a man's goods as if they were indentured to the

community. But whence could such a right of the community arise? Man does not hold property by the grace of the state. How then can it be proven that the state has a right to a part of the goods movable or immovable which a man possesses or produces?

Some maintain that men entering upon a political union bring all their goods and fortune to a common treasury to form, as it were, the social capital of the community, and thus when the state exacts contributions it is merely as the over-landlord exacting his share of the harvest, like the "Seigneur lounging in the 'Oeil de Boeuf'." The idea contradicts both the psychology and the history of private property. The state is a society not of purses but of persons.

If it is a personal obligation imposed because one is a member of this community, where is the justice in imposing a tax on foreigners who possess property in this community? We can answer: This is the license fee paid for the privilege of doing business or for the protection of property. The tax fee is rather *re*-tribution than contribution. Then again, in a certain sense they, through their property, are by international agreement considered for this purpose members of this community, or perhaps better, since this tax is imposed in all countries on foreigners, it might be called an equalization among nations.

II. The end which justifies the imposition of taxes is the common weal. There must thus be either a general need or general utility. The purpose is not directly to equalize fortunes. Private right cedes only to the public good; the state has no right to take simply because it judges that one individual has too much. Indirectly, though, because it imposes according to the means of each, the state may tax more heavily swollen fortunes than meagre incomes and thus to an extent decrease superabundance of fortune. In the Hegelian system, the omnipotent state imposes taxes because it so wills—*pro ratione stat voluntas*. This makes the state

to be its own *raison d'être* when in truth it exists only for the common weal. To hold the payment of taxes to be a contractural obligation means to hold the false theory of the social contract. It would mean that tax levying is directly an act of commutative justice and would demand exact service to each individual.

Nor can it be held that taxes are a commutation of benefits received by the state and individual. What benefits accrue individually to the man, who is never in court, by the public administration of justice? Nor is it a payment to insure the safety of goods. The scope of the government and its needs are far beyond mere safety insurance. It has been well said therefore that for the state to exact more than it needs for the public good is a species of larceny.

The proportion of the levy should be according to the means of the individual by which is meant the ability to contribute. The proportion is not therefore the benefits derived from the government. "If we wanted," says Stuart Mills, "to estimate the degree of benefit which different persons derive from the protection of the government, we should have to consider who would suffer most if that protection were withdrawn; to which question, if any answer could be made, it must be, those would suffer most who are weakest in mind or body, either by nature or by position." [1]

The demand that the amount of taxes paid shall adequately correspond to the amount of income received, is a practical impossibility. Nor does the amount of income necessarily exactly prove the extent of the capability to pay. Of course, in fixing a norm the state must work on general averages and therefore the ideal system would be to approach such an equalization as much as possible. The demand that the same rate be paid on all property regardless of whether there be revenue or none, whether the revenues be large or small, is made, it is claimed, on the basis of the equality of all before the

(1) Principles of Political Economy, S. 5, c. 2, n. 2.

law. In reality though far from equality, it levies an unequal burden. Why should a home be taxed at the same rate as a store, or a government bond that nets 5 per cent per annum be taxed at the same rate per hundred dollars face value as a corporation bond that brings 8 to 10 per cent?

Discussing unearned increment in land values, both Dr. Michael Cronin (Science of Ethics, vol. II, pp. 290 sqq.) and Dr. John A. Ryan (Distributive Justice, pp. 102-177) give the state rather broad leeway for imposing taxes. The former says: "Though, therefore, what is spoken of as unearned increment in land is not unlawful, still in dealing with, and imposing taxes on increments in the value of building sites the government ought to be given a very free hand. For, first, a good deal of money would thus accrue to the community; secondly, such a tax would help to prevent extortions which at present are only too common in cities." No principle, title or practice, Ryan holds, nor any canon of taxation has intrinsic or metaphysical value. All are to be evaluated with reference to human welfare. . . . .In general then any method of distribution, any modification of property rights, any form of taxation, is morally lawful which promotes the interest of the whole community, without causing undue inconvenience to any individual." This would make taxes not only revenue getters, but likewise equalizers of fortunes, punishment for extortion, subsidies for the poor, etc. Possession of private property is not an end in itself, it is only a means. But the welfare of the whole community is not the only thing which determines the lawfulness of such possession. The individual person does not exist merely for the welfare of the community, he, too, exists unto and for himself. His title to private property is not derived merely from the community, it is derived, too, from his very dignity as a human person. Dr. Cronin's first argument sounds very much like Satan's offer, "All these things will I give thee, if thou wilt fall down and adore me" (Matt., 4, 9).

In the United States even in the largest cities it is not the scarcity of land which makes home owning difficult. Many have themselves to blame; they would rather herd together close to the centres of amusements, thrills and excitement. Street cars, motor busses and like transportation facilities make the open spaces, God's out of doors, where building lots are cheap and plentiful, available to the humblest. Light, water and like home comforts are easily obtainable today in these semi-rural districts. The poorer classes live in tenements on streets where a front foot costs about as much as an acre does in a semi-rural district.

If the title to unearned increment is lawful, which both concede, it must be treated on the same equality as other property. If then the need in the wider sense is established for the community and unearned increment can stand the strain of higher taxation better, it may be rated higher. There are canons to taxation which have intrinsic value; no man can be despoiled of his right by the mere will of the state. "The right of sovereignty is unlike the right of property inasmuch as it is by nature ordained not for the benefit of him who holds it but for the benefit of society" (Cardinal Billot, Moral Origin of Civil Authority, in Ryan-Millar, State and Church, p. 65).

Article IV

Obligation in Conscience of Tax Laws

Questions at issue:

Do tax laws oblige in conscience?

If so, by which virtue?

Some maintain that all tax laws are merely penal. Thus Crolly says of the English tax laws: "It is really very difficult to state in general what is to be held in different countries and times about the obligation of laws imposing taxes, since this

depends greatly on the mind of the legislator. But from what has been stated it is evident that it is by no means certain that nowadays these laws oblige in conscience or in any other manner than as penal laws. That tax laws among us today practically only oblige in the manner of penal laws seems certain, because it is morally certain that the legislator does not intend to impose a further obligation. No one, or scarcely no one, holds that custom duties oblige in conscience. The same can be said of excise taxes. In the opinion of our people, these laws are looked upon as being in the same category as other tax laws. In fact there are so many tax inquisitors that it is evident that the government in this matter does not in any way trust to conscience." [1]

Further along he confirms his opinion saying: "If there would be such an obligation, it would fall on the good only. It would produce no effect on the ungodly."

Others hold: "According to Catholic teaching, statutes imposing taxes bind in conscience. The general reason is the same as that which attaches moral obligation to other civil laws. Moreover the obligation is not merely one of legal justice but also of strict justice which requires restitution to be made when it is violated." [2] Those who hold this view allow only extrinsic causes as an excuse from this obligation—such as excessive taxation, unequal burdens, the common custom of tax evasion, etc.

That tax laws of civil governments can bind in conscience is certain from Holy Writ: "Give unto Caesar, says our Lord, the things that are Caesar's." [3] Christ Himself shows the example by paying the tribute for St. Peter. [4] In this same sense St. Paul writes, "For therefore also you pay tribute for they are the ministers of God, serving unto his purpose.

(1) De Justitia et Jure, vol. III, disp. XIII, dub. XI, n. 1015.

(2) Ryan-Millar, State and Church, p. 267. Koch-Preuss, Handbook of Mor. Theol., vol. 5, p. 448.

(3) Matt., 22, 21.

(4) Matt., 17, 26.

Render therefore to all men their dues. Tribute to whom tribute is due, custom to whom custom." [5]

These text of Holy Writ do not define whether the obligation arises from legal or commutative justice. Wherefore another school of moralists bases the duty of paying taxes simply on legal justice. Others again make a distinction, to wit, the obligation in conscience arises only after the tax bill is made out by the fiscal agents of the government. When the bill is made out some claim the obligation is in commutative justice; others, however, just as stoutly maintain that even then it binds only in legal justice. Vermeersch says this last opinion is the common opinion. [6] Ryan says: "As a rule, the citizen is not bound to pay taxes until the amount due from him has been defined by the fiscal authorities. When he is legally required to furnish a statement of his property he is obliged by legal justice to comply. This same authority claims that if the law compels the citizens to come forward and list their property, the citizen is bound by legal justice to provide a statement of his taxable property." [7] Here again the trend of modern opinion is against Ryan. It holds there is no obligation in conscience to come forward and list property for taxation. The laws so compelling citizens are merely penal. [8]

In this variety of opinion among moralists of the highest repute, no confessor or preacher has a right to assert an obligation in conscience to come forward and list property for taxation. Neither has he the right to impose the obligation of restitution on one who has successfully evaded listing his property. If one has been sentenced for failure to file a report he must pay the amount of taxes and fines assessed. This obligation after sentence has been pronounced is in commuta-

(5) Romans 13, 5-7.

(6) Vermeersch, Theo. Mor., vol. II, n. 567, 2.

(7) Ryan-Millar, State and Church, p. 269, quoted approvingly by Koch-Preuss, vol. 5, p. 449.

(8) Vermeersch, ibid. Wafferaert, De Justitia, vol. II, 421, says: "Quod spectat obligationem declarandi demonstrari nequit obligationem hanc esse justitiae sed immediatam obligationem si agnoscere debeamus haec solius obedientiae est. Praeterea leges qua parte declarationem imponunt esse mere poenales probabiliter defendi posse putamus."

tive justice. Fraud or evasion after sentence consequently entails the onus of restitution.

What if a false return has been made? Here, too, there is a very wide range of opinion. The application of the general principles, says Ryan, "is not entirely very simple, owing to the complexity and injustice of our tax system, and the very large proportion of persons who habitually understate their taxable property . . . . in these circumstances the conscientious citizen cannot be required to do more than pay that proportion of the full amount which is paid by the majority." Vermeersch says: "Moreover before the fiscal agents have made out the bill as to how much the particular citizen must pay, the state has no acquired right. When the bill is thus made out, the question of an obligation in justice to pay just taxes is disputed. There can be no question but that civil rulers have the power to compel the citizens to pay their just share of taxes. But even before our time many have held that the intention of the legislator extends only to assessing fines on those caught defrauding. Much less does it seem as if the legislators of today wish to bind in conscience. Unless, therefore, in some country the general persuasion be to the contrary (such persuasion where it exists must be accepted), we deny the obligation in conscience." [9]

A further objection is urged. Because of false returns the government on account of its needs is forced to raise the tax rate or pass other tax measures in consequence, certain ones who would otherwise escape the higher rate or the new tax are made to suffer an injustice. The objection would be valid if it could be proven that the increased tax rate or recourse to other taxes is the direct effect of an act unjust in commutative justice. Now since the evasion cannot be proven to be unjust before the pro rata is actually assessed on the individual and even then it is disputed whether it is a violation in commutative justice the proof is wanting to show that precisely by commuta-

(9) Vermeersch, l. c.

tive justice one is held not to place this act precisely lest this effect follow. It could further be alleged *"Scienti et volenti non fit injuria"*. A cursory study would show that property holders in general do not act so scrupulously. If some one is forced by a sentence of judge to list his property higher, he is the victim of an evil chance for violating a penal law. It is his misfortune not the other man's blame.

The question likewise arises: Is there not present the sin of telling a lie implied in such false declaration and undervaluations?

Officials and the public in general know full well that such declaration are only relatively true. Hence the words or signs used can be readily and usually are interpreted in their relative sense, namely, that is the tax value. The intention *"decipiendi"* is wanting; by this is meant the words or signs used are of such a nature that they do not necessarily convey a false notion. The malice of lying lies in the abuse of external signs. God gave us speech to express our internal thoughts externally. External signs are arbitrary for the most part and are interpreted according to custom and circumstances.

Perjury is a lie which God is called upon to witness. If then the external sign is not a lie there is no sin of perjury. In the United States no one is obliged to take an oath, a solemn affirmation is all that is required. Furthermore, considering the frivolous and hurried manner in which an oath is administered in many cases, it may well be doubted whether the formula, though obviously it implies an oath, is really such. The *"accidentale sequitur essentiale"*, the oath being subsidiary we can say: if the statement is not a lie, neither is the oath a perjury.[10]

Nearly all authors agree that internal revenue and tariff laws are merely penal.[11] The reasons they allege are: the fines levied on those caught, coupled with the extraordinary

(10) Waffelaert, lib. cit., n. 42, p. 373.
(11) Vermeersch, vol. II, No. 567.

means taken to catch offenders show plainly that nothing is left to conscience. This is especially true of the enforcement laws of the Eighteenth Amendment in most of the states. "Tariff duties are saturated with economic and ethical unequalities." [12] The so called nuisance taxes are generally held to be penal. Laws forbidding the manufacture, sale and importing of certain articles, which can serve no legitimate purpose in themselves, oblige in conscience. The manufacture and sale of such things is intrinsically wrong. Articles which can serve a legitimate purpose but can be used for very wrong purposes, such as narcotics, poison, etc., may not be manufactured or sold except one have good reason to believe that they are to be used for legitimate purposes. As to other things which may be abused and by their abuse become dangerous, but which the general run of people do not abuse, to sell them, even though the sale is forbidden by law, is not held to be an offence in conscience. Stamp taxes on bonds, deeds, mortgages, stocks, etc., universally are held to be merely penal. False returns for inheritance tax, provided of course no injustice is done to the heirs, are likewise said to be merely penal violations.

N. B.—In this matter of tax returns and of listing one's goods for taxation in the United States a further circumstance affecting Catholics must be considered, namely, by unjust laws they are made to contribute doubly for the education of children. If then they do their just share for Catholic education they can in conscience compute this amount as payment of taxes. The new Code is entirely silent on the question of immunity from taxation formerly enjoyed by clerics. Wherefore canonists today assert that clerics are bound to pay taxes just as civilians. [13]

(12) Ryan-Millar, lib. cit., p. 262.

(13) Koch-Preuss, vol. 5, pp. 445, 446, 450. Augustine, A Commentary on Canon Law, vol. III, p. 65.

Article V

Tax Officials and Their Duties

Fiscal agents enter upon a contractural obligation with the government to do their full duty in finding, listing and assessing of property for taxation. This duty certainly arises from commutative justice in as far as they have a right to their full salary only if they do their full duty. They are therefore held to restitution for a part of their salary if they are willfully negligent.

Would they be held to make restitution for the amount of taxes the government did not receive because of their negligence? The government's right in commutative justice to the tax does not arise until the property has been assessed, hence they could be held to make restitution only for negligence in not collecting taxes actually assessed against property. They are never held to make restitution for fines which were not assessed because of their negligence.

There is a difference between negligence and a conspiracy to prevent the government by fraud from prosecuting its just rights. Thus though a man who knowingly undervalues his property may not violate commutative justice, he does so, if he presents, e.g., fraudulent vouchers or checks to show indebtedness. The axiom, *caveat emptor*, can be used to exempt a seller from making known certain hidden faults, but cannot excuse when positive fraud has been resorted to in covering up such hidden faults.

The government is here the buyer and it is its business to investigate returns to see whether they are correct. It may not be hindered by positive fraud from making such investigation. Fiscal agents who accept bribes for allowing false returns to pass prevent such investigation, wherefore by force of their contract they violate commutative justice and are held to make good the damage accruing to the government from

this inability to collect the full tax. Those offering the bribe are held *in solidum* with them. The briber, being the gainer by the fraud, is held first, and if he fails to make the restitution the one who was bribed is held.

In searching for property to list, officials need use only ordinary diligence. In fact they may not unduly vex citizens. Neither may they list below the minimum nor above the maximum value for tax purposes as fixed by law and the custom of the better class or general run of citizens.

An obligation to make restitution *sub grave* arises only if there was a *culpa theologica in re gravi.* Little derelictions in the discharge of duty can coalesce into serious matter. In this case double the amount required to constitute a grievous sin of theft, when the amount is taken at one time, must be figured. The absolute norm is to be applied as for thefts from rich people. Some authors maintain that the sum required for little thefts of children from their parents is to be used here as the norm. [1]

Those who resist *violently* the collection of taxes, fines, etc., sin doubly against commutative justice: first against the person of the officials, and then against the government.

Professional bootleggers, smugglers, etc., generally sin against charity towards themselves and their families, by risking the assessment of heavy penalties. Wherefore a Catholic cannot in conscience engage in bootlegging, as a business.

A confessor will therefore: (*a*) impose the obligation of restitution only when it is really certain that restitution is due. (*b*) As there can be good faith among many, since the confessor is not a government official, he need not disturb such good faith. (*c*) If asked he is to exhort the faithful to pay their taxes, with due allowance made for Catholic school support, as others in the community pay.

Specifically as regards the Eighteenth Amendment and Volstead Act, there is a very founded and probable opinion

(1) Pruemmer, Manuale Juris Canonici, p. 87.

that this law does not oblige in conscience. (1) See general obligations of civil laws. (2) This law is held by many respectable citizens as an undue invasion of personal rights. (3) And by very many is made light of.

(*a*) It is, therefore, nothing short of criminal for either preachers or confessor to urge the observance of this law in conscience upon Catholics.

(*b*) Those who buy, sell, keep, make, or use intoxicants privately, i.e., do not engage in this as a business are not to be molested in conscience.

(*c*) If they are condemned by a legitimate judge (whether the village fee-splitting courts are legitimate in the sense of recognition in conscience is very doubtful) they may not use violence, or other frauds to prevent payment of fines. *Presumptio stat pro superiori.*

(*d*) Law enforcement officials need not proceed against possible violators unless they have real founded evidence of violation. They are not allowed to search private dwellings, vehicles, etc., unless they have real evidence of violation. It is an accepted axiom in American law that a man's home is inviolable. Bribe taking and giving, follows the same rules as above.

(*e*) Those who possess intoxicants, whether legitimately or not, though they are contraband, are the real owners until such intoxicants have been confiscated by the government. Private appropriation is theft.

Some would find fault with Catholic theologians for what are called lax views on the obligation in conscience of civil laws and taxes. Moral theologians are not to blame for the false views the majority of legislators and civil jurists hold concerning the police power and sanction of the state. They cannot be blamed because modern legislators have banished God and the hereafter from the schools and by this have brought up a generation that believes only in the evil chance of being caught and punished for violations of civil law. They are not to

blame for the use of tax money in making propaganda against God, the hereafter and conscience. They feel that where these convictions against obligation in conscience are so widespread they would commit an injustice on the Catholic people if they made them believe that they were burdened where the majority of fellow citizens refuse to take like burdens. All advise Catholics to do their duty at least in the same manner and proportion as the others do. There is quite a difference between telling people you should respect every law of the country and to tell them unless you obey every law of the government you jeopardize your eternal salvation. Respect and external compliance to civil enactments which are just should always be insisted upon; observance as obliging in conscience can only be urged when there is a moral certainty that the particular law in question does so oblige.

CHAPTER FOUR

Moral Education

Article I

Education and Catholic Faith and Morals

The Church does not vindicate for herself a monopoly or an exclusive right to teach and educate Catholic children. In her legislation on this subject she insists that "parents are held by a most serious obligation to take care, in every possible manner, of the religious, moral, physical and civil education of their children" (Canon 1113). She has always recognized the native right of parents to teach their children, and further she has always recognized that parents are allowed to form groups among themselves for this purpose. She has always recognized that the state has interests in this matter and that the state has the right and even the obligation to aid parents to procure a good education for their children. She denies that the state has a monopoly in this field or that the state has a right to dictate to parents to which school they must send their children. She has always resisted every attempt on the part of the state to suppress the rights of parents in this matter. The Church has always insisted that she has a divine right to build schools, engage teachers, instruct and educate children even in the profane sciences; therefore to give elementary, high school, university training in all its branches (Canon 1375). To prove this right it is not necessary to appeal to her inherent character as a perfect independent society. Just as well as other groups formed for this purpose she has the right to offer parents advantageous means of teaching and educating their children. From the fact that she is a perfect, independent society she has a right to be free from all direct interference in this matter on the part of the state. Because she has not been able always

to assert her right in fact, or because in order to prevent greater evils she has been willing by concordats or by tacit consent to waive her rights, in no wise prove that she has ever abandoned this her right to complete freedom. She has been willing always to enforce by her authority the just enactments of the state on school attendance, on the minimum of learning required, on the qualification of teachers to teach the profane sciences. But as a perfect society whose reputation is established by centuries of history, she has a full right to demand of the state to accept her assurance and guarantee in this matter. Where she has allowed state supervision or inspection as regards profane studies in her schools, she has done so as an act of amity to a friendly likewise perfect society or else to prevent greater evils, when the state was more or less hostile and invaded her rights. In matters of profane science, she pretends to no infallibility, nor even to any superiority over other legitimate groups or societies.

The Church does vindicate for herself the sole and exclusive right to give religious instruction and Christian education to young and old. In pagan countries she claims only the right to be allowed to give such instruction without let or hindrance to those not baptized, who seek it. For those who are members of the Church, she reserves to herself absolutely and exclusively this right. The Catholic Church alone has received the mission to teach the gospel. For those who are baptized but remain outside her fold, she cannot cede her exclusive right, she does perforce tolerate other conditions. Truth, because it is truth, is necessarily unwavering and unyielding. This is not intolerance in the sense in which this charge is brought against the Church. Right is right always and everywhere.

"The religious instruction of the young in all schools is subject to the authority and inspection of the Church" (Canon 1381, No. 1).

The Church asserts this right declaring, "The Ordinaries of places have the right and duty to be vigilant lest in any of the

schools in their territory any thing be taught against faith or good morals" (ibid., No. 2).

"They likewise have the right to approve the teachers and books of religion, and on account of religion and morals, to demand the removal of both teachers and books" (ibid., No. 3).

A difference will be noted between the first and second part of this Canon. In the first part it asserts the direct, positive right to approve of books and teachers of religion; in the second part, it asserts the right to demand the removal of books and teachers dealing with the profane sciences who offend against religion and morals.

The Church's divine mission gives her the right to command that "all the faithful from childhood on, are to be instructed in such a manner that not only nothing be taught them contrary to the faith and good morals, but likewise that religious instruction occupy the principal place (Canon 1372, No. 1).

"Not only parents, as enjoined in Canon 1113, but also all who take their place have the right and the most serious duty to care for the Christian education of the children" (ibid., No. 2).

"In every elementary school children must be given religious instruction suitable to their age" (Canon 1373, No. 1).

"Young people who attend high schools or colleges, are to receive fuller religious training, and the Ordinaries of places will take care that such instruction is given by priests known for their zeal and learning" (ibid., No. 2).

The code demands that such instruction be given to those who attend "*medias et superiores scholas*". This is understood to mean cultural schools, not trade or vocational schools.[1] It does, of course, include normal schools where teachers are formed. These canons reject the divorce of education from religion and moral instruction and likewise the viewpoint assumed by many, namely, it is well to defer religious and moral instruction until adult age. And rightly so. Education without religion does violence to the religious nature of man. A

(1) Creussen, S.J., Nouvelle Revue Theologique, vol. 53, n. 3, p. 185.

non-religious training is fitting for brute animals, it is a crime against the free and moral nature of man. It denies the traditional continuity of the human race and sins against the first principles of pedagogy. Pretending to defer freedom of choice in religious and moral matters to a more mature age, inculcates license, scepticism, and atheism. Character can not be formed unless it be cast in the mold of religion. Religion of necessity demands a definite creed. In view of the erroneous opinions broadcasted everywhere, these canons should be preached from the housetops in season and out of season. [2]

To remove all danger to faith and morals the Church commands further: "Catholic children shall not attend non-Catholic, neutral or mixed schools" (Canon 1374). The term mixed school might be misinterpreted as meaning coeducational schools for both sexes, to make plain what the term means, the canon gives the definition of mixed schools, namely, those "which are open likewise to non-Catholics". It would be a too literal interpretation to extend this to strictly Catholic schools which admit non-Catholic children. However on several occasions the Holy See has warned especially communities of nuns not to be too free in admitting non-Catholic children to their schools and academies and has admonished that where it is done it be with watchful care lest it constitute a danger to the faith and morals of the Catholic children. [3]

The Church does not want her children to grow up illiterate and therefore the canon adds: "It is the exclusive right of the Ordinary of the place to judge when and under which safeguards, so that all danger of perversion is avoided, such schools may be tolerated, according to the norms laid down by the Holy See." From the wording of the canon it is manifest that this refers directly to the duty of the Ordinary in the question of using means at his disposal to see to it that the schools in his district are not neutral in the matter of religious instruction

(2) Epitome Juris Canonici, Vermeersch-Creussen, vol. II, n. 710.
(3) Lib. cit., 711, 2.

and in so far refers more especially to distinctly Catholic countries. Yet it is evident that it refers, too, to the right of judging either in a general manner or in particular cases whether Catholic children may attend such schools. In allowing such attendance, a difference is to be made between schools of heretical sects and public or private neutral or mixed schools. "Catholic parents or those taking the parent's place who knowingly have children taught or educated in a non-Catholic religion" (Canon 2319, No. 4); "those who enter upon a marriage with an agreement explicit or implicit to have all or any of the children educated outside of the Catholic Church" (ibid., No. 2), are subject to excommunication *latae sententiae* reserved to the Ordinary. The instruction given to our bishops by the Congregation for the Propagation, makes the same distinction: "Above all it must be considered whether in the school which is to be attended there is such a danger of perversion that it cannot in any manner be made remote; this will be as often as things are taught or done in the school contrary to Catholic doctrine or good morals. Such a danger as is evident of itself must be avoided no matter what may be the temporal damage or even danger of life." [4]

(*a*) Under no consideration may Catholic parents, guardians, etc., send children to schools, colleges, universities where instruction in a non-Catholic religion is a compulsory part of the curriculum, nor where chapel attendance is compulsory for them.

(*b*) When this is not compulsory, the very atmosphere of such institutions being heretical, it would be only on most serious reasons with every possible precaution taken by the children, parents and pastors to remove the danger of perversion that the Ordinary could grant permission for attendance on schools controlled by sects.

(*c*) This holds likewise with regard to summer schools, recreational camps, clubs, etc. In fact even more so, because

(4) III. Council Balt., Appendix, p. 279 sqq.

as a rule there is no very stringent reason to go to such camps or join such clubs. Here it might be well to note that it is the height of folly to try to duplicate all these fads and fancies of non-Catholics. Our children and their parents should be taught that Catholic life demands sacrifice. The burden put on our people to support Catholic schools is sufficiently heavy to forbid diversions of such funds as are available. Nor should the yoke be made heavier. Newman Clubs and such like features at non-Catholic colleges and universities may at times be helpful, but they should never be stressed to the detriment of Catholic colleges and universities. An association to maintain professors of Catholic philosophy, especially of ethics, of the history of the Catholic Church and of Catholic literature in non-Catholic universities, could accomplish much. If we are to form leaders for Catholic thought and action, the cultural content of Catholicism in the arts, literature and sciences must be emphasized.

"Ordinaries are advised to send a certain select number of their clerics to universities and faculties established or approved by the Holy See to pursue higher studies in philosophy, theology, and canon law in order to obtain degrees" (Canon 1380).

Existing conditions may demand that some priests attend lay universities, i.e., neither founded or approved by the Holy See. The S. Congregation of the Consistory has issued a special instruction on this matter. It is summarized by Vermeersch-Creussen: (*a*) Clerics are to be allowed to attend such universities, not for private utility but only on account of the common necessity or utility of the diocese. (*b*) None but priests are allowed such attendance. (*c*) These should be of a kind as give founded hope that by their studies, their talents and sanctity of morals, will reflect honor and credit on the clergy. (*d*) Attendance at such universities does not excuse from the examens prescribed in cc. 130 et 590. (*e*) "No cleric may accept a teaching or other secular office of his own accord and especially not against the will of his Ordinary, if

notwithstanding he does so, let him be punished with condign punishment not excepting *suspensio a divinis*" (April 30, 1918). Matters pertaining to priests, students or teachers in lay schools come under the competency of S. Cong. Concilli (A. A. S., 1923, vol. 15, p. 39).

The commands of this instruction are applicable to nuns and likewise to clerics belonging to an exempt order or congregation. For these latter, the Provincial is the Ordinary.

Canon 1379:

"If Catholic schools whether elementary or high schools such as are required by Canon 1373, do not exist, measures must be taken especially by the Ordinaries of places to establish such" (ibid., No. 1).

"Where public universities are not imbued with Catholic doctrine and viewpoint, it is desirable that Catholic universities be founded either for the nation or the region" (ibid., No. 2).

"Let the faithful not be remiss to lend their aid, according to their means, to build and to maintain Catholic schools" (ibid., No. 3).

The law of charity obliges every one to succor his neighbor in need; almsgiving, prayer and fasting are the good works specially recommended by Holy Writ. Moral theologians readily excuse from the sin of neglect to give alms because there are so many public agencies which take care of the poor, the sick and the infirm that rarely there is pressing need. But in our country the spiritual need of children to receive proper instruction in the faith and to be safeguarded from perversion, is pressing in nearly every diocese. There, too, is a crying need to form leaders among the Catholic laymen, especially in the field of law, medicine and teaching. Such leaders cannot be had without Catholic university training. Here then is a duty of charity, almsgiving if you will, that cannot be too strongly impressed upon the faithful.

Article II

The Catholic School

The canons cited make clear the notes which distinguish a Catholic from a non-Catholic, neutral or mixed school. The dominant distinguishing note is religious and moral education must go hand in hand with the physical and civil teaching and education of the pupils. Catholic doctrine must underlie the teaching of the profane or secular branches; at least nothing contrary to it must be taught. Further such schools must be subject to the legitimate rights and duties of the authority recognized and established by the Church in this matter. It would be a serious mistake to imagine that only the parochial school can measure up to this standard. The Church recognizes and approves such schools founded and directed by (1) parents or groups of parents; (2) directed by the state; (3) directed by private individuals not specially delegated by parents; (4) schools directed immediately by the Church. All these can deserve the name Catholic, provided they live up to the demands of the Church. She reserves the right to see to it that the Catholic religion is taught, that nothing is taught or done against Catholic faith and morals, to approve those who teach religion, to approve the books used for religious instruction, to demand the removal of books and teachers which offend against faith or morals (Canon 1381).

To safeguard these rights, she demands that "The Ordinaries of places have free access, whether in person or by delegate, to visit and inspect schools, oratories, recreational centres, homes, etc., in matters which pertain to the religious and moral training; the schools maintained by religious of any kind are not exempt from such visits, except the intern schools for the professed of exempt religious" (1382).

If any of these rights or duties are denied the Ordinary they are not Catholic schools.

Instruction in Christian doctrine is to be given by the pastors and their assistants, by religious, clerics or lay, the former under the control of their superiors, the latter under the control of the priest designated by the Ordinary of the place, namely, pastor, chaplain or diocesan inspector, lastly by lay people under the immediate direction of the pastor or priest assigned by competent authority. The choice of books to be used for religious instruction such as the catechism, bible history, church history, etc., belongs directly to the Ordinary. [1]

However the Ordinary has not the full right to exclude from the schools not immediately and directly subject to him, manuals of religious instruction which are irreproachable in the matter of faith and morals. Nor has he the right to demand the use of one absolutely against any other. He has the right to prescribe that certain matters be treated and to establish a minimum in this matter, but in itself he has no right to say that a particular method, for instance, the Socratic, project problem, visualization method, be used. Of course, for schools which are directly and immediately subject to the Ordinary, such as our parochial schools, he has full rights as to choice of books, methods, teachers, etc., not only for religious instructions but for all the branches taught. He can demand that teachers belonging to religious communities, who teach in his diocesan, regional or parochial schools, have certain qualifications, use certain books, methods, etc. [2] Yet too much standardization can prove harmful. Some individuality should be left an experienced teacher, and especially the approved methods of religious communities. When granting even exempt religious the needed permission to establish houses, colleges, etc., certain agreements may be made. [3]

(1) Wernz, Jus Decret., vol. III, n. 76.

(2) III. Council Balt., pp. 221, 222.

(3) Council Balt., p. 223. Cf. Especially Creussen, S.J., L'ecole Catholique in Nouvelle Revue Theologique, vol. 53, n. 3, p. 184 sqq.

Article III

Bible Reading in the Schools

The reading of the Bible or rather parts of the Bible in the public schools is fraught with many difficulties. A Catholic cannot allow the Bible to be studied or read from a merely literary standpoint. The Bible is to him the word of God, and as the author of the Imitation says, "to curiously study the Holy Scripture is unto destruction."

To look upon the Bible as a book merely for character building and moral training without reference to dogmatic principles and truths of faith it contains, emasculates the word of God. "It seemed good to me . . . to write to thee in order . . . that thou mayest know the verity of those words in which thou hast been instructed" (Luke 1, 3-4). "But these are written, that you may believe that Jesus is the Christ, the Son of God, and that believing you may have life in His name" (John 20, 31).

When this movement is palliated with the pretense of literary study or morality without dogmatism, no Catholic can actively promote it. The crime wave sweeping over the younger generation is proof sufficient that children need religious instruction, that the Sunday-school does not sufficiently take care of it, that religious training at home is sadly deficient. Educators are at their wits ends as to ways and means of introducing some moral training, some religious education into the curricula of the public school. The half-way measures they advocate of some hymn singing, some readings from the Bible unobjectionable to all the sects represented, practically make for a spirit of indifferentism which is as bad and, perhaps, worse from the Catholic standpoint than the spirit of non-religion resulting from the complete exclusion of these branches. A Catholic can scarcely give any aid to help them in the movement. The only stand he can take conscien-

tiously is to advocate a separation of the children according to their religious persuasions for a period a day and allow the various churches in the district to engage a teacher to take of the children during this period. Politically it would not be well to co-operate with obtaining the money for this purpose from the taxes.

What about Catholic children attending the Bible reading periods in public schools?

Where there are facilities to attend a Catholic school this cannot be allowed. It fosters indifferentism to say the least, no matter under what guise or pretense it is palliated. But we can well imagine a situation where it is a question of either no schooling, because there is no Catholic school in the place, or attendance on the Bible reading period, namely, the law might make it compulsory on all to attend.

(*a*) If in the selection made or the interpretations made, things are taught directly against Catholic faith or morals, Catholics would be obliged to resist even unto death. Such attendance would be a denial of faith. [1]

(*b*) If the passages selected and the explanation given are colorless, every attempt must be made to have Catholic children excused from these periods. But if these attempts prove fruitless, the hardships resulting, i.e., fines assessed, or the children by not attending school would grow up illiterate, dissensions in families of mixed religion, might be a sufficient cause for remote cooperation. The parents and pastors of such children would have to redouble their endeavors to give the proper antidote to the spirit of indifferentism.

(*c*) Where the law is not compulsory or where these hardships would not follow, Catholic children even under sacrifices would be obliged to absent themselves from these periods.

Another difficulty which could scarcely be avoided would arise, namely, what version of the Bible is to be read? As it is only a question of excerpts and in the supposition of harmless

(1) Cf. Inst. to Bishops of America, III Counc. Balt., Appendix, p. 279 sqq.

extracts the law against Bible reading of Protestant versions might be waived (Canon 1399).

For the sake of insuring uniformity before action is taken by any confessor, priest or pastor, the matter is to be placed before the Ordinary of the place. The code as well as the instruction declare the Ordinary to be the competent judge.

If American Catholics are to be the vanguard of culture and progress, a position due them, they need leaders in thought and action. Neither a knowledge of the faith nor yet a deeper understanding of its truths will suffice. A continuity with the past must be established. This postulates an impregnation with the culture of the ages, a heritage of which every Catholic should be proud. This heritage is found in the achievements of Catholics in the arts, literature and sciences. To cultivate this Catholic sense, psychology of action and culture is the special prerogative of the Catholic college and university.

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